

# Vital American Problems

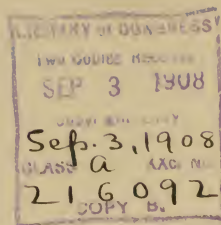
An  
Attempt to Solve  
The "Trust," "Labor," and "Negro"  
Problems

By  
Harry Earl Montgomery



G. P. Putnam's Sons  
New York and London  
The Knickerbocker Press  
1908





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The Knickerbocker Press, New York

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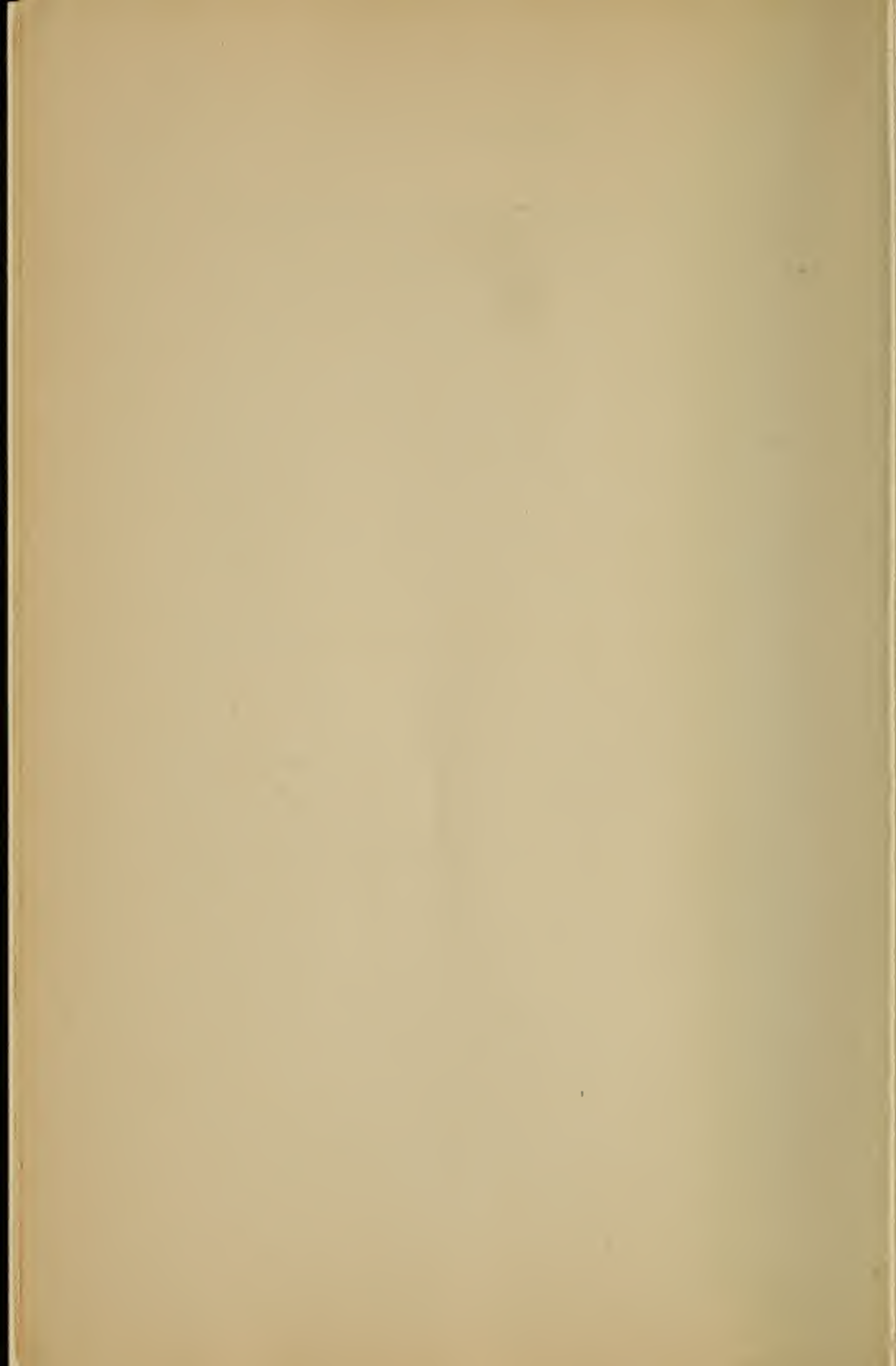
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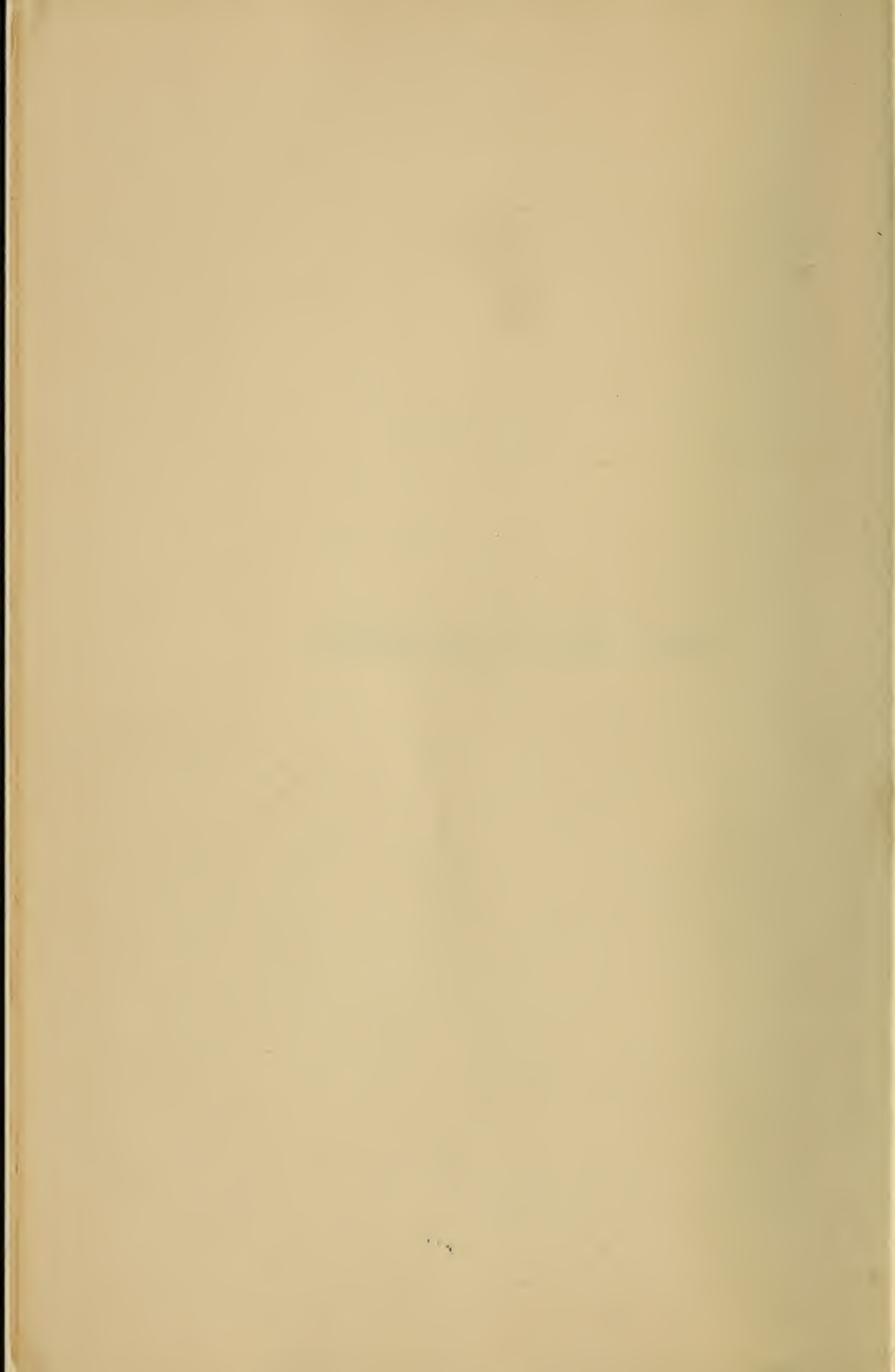
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## THE "TRUST" PROBLEM





# I

## THE PROBLEM

THE discussion of the "Trust" problem during the past fifteen years has brought this subject through the hysterical, demagogical, and denunciatory period on to that stage of development where calm, sane, and deliberate judgment prevails. Facts regarding the organization and management of "trusts" and their effect upon the industrial and commercial life of the American nation have been gathered, tabulated, studied, and digested until the mists of uncertainty and the clouds of ignorance have vanished, leaving these combinations of capital standing forth in the bright light of a perfect knowledge, with their forms, effects, and tendencies fully known.

The origin and development of "trusts" and their valuable features and evil tendencies may be summarized as follows:

The principle of co-operation is a fundamental law of society. It has its birth in man's instinct for self-protection and self-preservation; and in the earliest stages of social development took the form of village communities, clans, tribes, and

nations. Step by step in the progress of civilization this spirit of association has been developing in the social and political life and in the industrial and commercial world.

Although slower in its development than the social and political movements, the industrial evolution has been going on, steadily and persistently, through various forms of organization, until our age is confronted with vast combinations of tremendous and far-reaching power. This movement has developed from the individual in business to the partnership, from the partnership to the small corporation, from the small corporation to the pool, from the pool to the trust, and from the trust to the giant corporation.

The giant corporation is the latest phase in the growth of the principle of co-operation and is solely the result of the evolution of industrial progress amid certain well-known natural economic conditions and is not in any sense an excrescence on the commercial and industrial body politic.

Every sensible man favors the existence of corporations, for the reason that individual citizens cannot provide sufficient capital to develop the resources of our country. Vast sums of money are required to inaugurate and carry through great undertakings. And what one man cannot do for lack of means, several may accomplish by uniting the capital which each can command. To utilize the forces of steam and elec-

tricity in this growing country, and to handle the gigantic business operations of the present day, individuals have been forced to co-operate and to take advantage of the corporation laws. Our present economic system could not exist, our grasp of the markets of the world could not be held, were it not for corporate life.

The corporation, great or small, is organized to enable men, as a collective body, to do what each member may do as an individual. The right to combine, when the object of the combination is the general good, is recognized by Federal and State law, and has not been successfully questioned by any recognized student of economics.

The giant corporation, compactly organized, honestly financed, and rightfully managed, through the elimination of the unnecessary duplication of plants, of the reduplication of administrative machinery, and of the competitive struggle for the control of the market, will prevent waste, will reduce the costs of production, will furnish steady employment at an increased wage to the employees, will do away with child labor and the sweat-shop, will lower the prices of the finished products, will open new markets and will bring within the reach of the masses, at the cheapest price, kinds and quantities of goods unobtainable before the existence of these aggregations of capital. Furthermore, such a corporation, through its control of the market, will be en-



abled to manufacture intelligently with reference to the probable demand, thereby lessening the danger of "over-production," and furnishing a safe-guard against the financial difficulties which have periodically plagued the world. It will, likewise prove a tremendous instrument in advancing economic progress, not only on account of the superior efficiency of unified control, but especially because of its power to enlist for industrial purposes the largest possible share of the accumulated wealth of the people.

Despite these advantages accruing to the public from the large combinations of capital, there are dangerous elements existing in the giant corporations and positive evils emanating from them.

FIRST AND FOREMOST AMONG THE EVILS EXISTING IN CORPORATE LIFE TO-DAY, IS THE PRACTICE OF CAPITALIZING MERGED INDUSTRIES IN EXCESS OF THEIR ACTUAL VALUE.

Over-capitalization does not mean large capitalization or capitalization based on the amount necessary to finance large undertakings. Rather, it is the imposition upon an undertaking of a liability without a corresponding asset to meet it.

In the United States, the amount of the capitalization of corporations and the value of their net assets are in a large majority of cases entirely unrelated. Most of the large industrial corpo-

rations have issued bonds and preferred stock to an amount equal to the value of the combined properties as active concerns, and an equal or greater amount of common stock to represent the good-will and the prospective savings to be gained as a result of the combination.

From the reports of thirty-nine of the large corporations to the Industrial Commission in 1900, it was learned that the average value of the property owned by these corporations was only 64.42 per cent. of their nominal capitalization.

Mr. Wharton Baker in an able review of the organization of railroad corporations makes this statement:

"And now let us take up the vital question of over-capitalization of railroad corporations,—vital, because the railroads take from the people each year for dividends on fictitious capital the great sum of \$350,000,000, a tax of about four dollars upon every man, woman, and child in our country. . . . The present capitalization of our railroads is in the aggregate about \$13,800,000,000. The cost of these railroads, with all the changes of line, roadbed, and equipment properly chargeable to capital accounts, does not exceed \$6,000,000,000; so we have in the capitalization of our railroads almost \$8,000,000,000 of fictitious capital." <sup>1</sup>

Mr. James J. Hill has well summed up the situation in the declaration that very many com-

<sup>1</sup> *North American Review*, Oct. 19, 1906.



binations had been created "not for the purpose of manufacturing any public commodity in the first place, but for the purpose of selling sheaves of printed securities, which represent nothing more than good-will and prospective profits to the promoters."

This fictitious or speculative capitalization is a fraud upon those who contribute the real capital to the undertaking, either originally or by subsequent purchase, for the financial management, in order to keep up the value of the inflated and speculative stock which is very largely held by the promoters and those associated with them in the control of the corporation—stock given to them in payment for services rendered,—frequently conceals the true condition of the corporation and the relation of the profits earned to the actual capital invested, and uses the surplus to pay dividends or creates a floating debt to carry on the business. Further, it is a public evil because the combination, in order that a fair return may be made on its bonds and stock, is often obliged to cut down the wages of its employees and to charge too high prices for its product.

A MONOPOLY SECURED TO CORPORATIONS BY REASON OF THE OWNERSHIP OR CONTROL OF ONE OR MORE LINES OF INDUSTRY, OR OF THE SUPPLY OF RAW MATERIALS, IS A GRAVE DANGER.

A complete monopoly, except under a special government franchise, is an unknown condition in the United States. A practical monopoly, however, has been obtained by many combinations over several natural products and lines of industry.

Though many of the giant corporations, by reason of having merged in their combination practically all the factories engaged in a particular line of business, have power to fix the prices arbitrarily for the product they control, but few have dared to use their power to any great extent.

The production of wealth in the United States is increasing so rapidly that its owners are persistently seeking new fields for investment and the difficulty is daily becoming greater to find employment for capital even at nominal returns. It is a well-known fact that a great amount of idle capital exists in the hands of enterprising men who stand ready to enter any specific field of production whenever the profits offer a sufficient inducement. A case in point is that of the American Sugar Refining Company. This company, by charging exorbitant prices, brought upon itself the ruinous competition of Claus Spreckles, and its promising life ended in disaster. When the prospect of making large profits is presented, another combination is formed and competition ensues on a scale and operates with an intensity far beyond anything that is otherwise possible, with the inevitable result that the

profits become reduced to a minimum and the weaker competitor is compelled to sell out to the stronger, or to go out of business.

This competition need not be direct, however, for the fear of competition operates to a certain extent almost as effectively as the competition itself. But this form of latent competition has not proved an adequate regulator of prices for various well-understood causes.

The corporate managements are aware that the potential competitor is often tardy in his action for the following reasons: that he realizes that he will encounter many obstacles when he seeks to become an active competitor; that grave difficulties and dangers lie in his path; that nearly all the large corporations own factories or mills having a capacity in excess of the consuming power of the public; that the power of the giant corporation over the avenues of trade is reasonably secure; that losses incident to mistakes due to inexperience might prove ruinous, and that he will not have a fair chance for life when he enters the business arena. Further, considerable time must elapse between the organization of a competitive enterprise and the completion of the manufacturing plant, and the capitalist very often finds it more profitable to buy an interest in the money-making corporation than to start as a competitor with the risks attendant on winning a foothold. This delay on the part of the potential competitor to become



an actual competitor so lessens the fear of competition that it fails to provide a proper and complete check on the tendency of the corporation to raise prices, and it goes no further than to obviate the most flagrant abuse of power.

Another partial check to the abuse of power lies in the fact that there are on the market substitutes for nearly all articles of commerce which would be used exclusively if a cheaper price were made as an inducement. There are few, if any, among the commodities on which we depend for food, shelter, and clothing which the people would not dispense with if prices rose too high. Professor Giddings has well expressed this human trait in the following statement:

"When one group of producers demands unusually high prices, all other groups of producers can very considerably increase their sales in virtue of that law of human nature according to which men can and do, to a great extent, substitute one group of conveniences and pleasures for another, and distribute their expenditures at all times in such a way as to obtain the greatest satisfaction for a given outlay."

The incessant competition carried on by the producers of different commodities which claim to satisfy some particular class of need cannot be done away with by the monopoly of any one of them. This is probably the chief explanation of the comparatively low prices charged by the

Standard Oil Company. As an illuminant, oil is competing with gas, candles, and electricity, and unless the Standard Oil monopoly was extended to include these and other possible illuminants, the Company's prices could not, for any length of time, be determined by the pressure of the need for artificial light.

For years, the Standard Oil Company, refining as it does eighty-five per cent. of the oil refined in the United States, has from day to day announced the price at which it would buy crude oil and the price at which it would sell the refined; and this price has almost invariably been the market price followed by its competitors. In like manner, the American Sugar Refining Company, which sells ninety per cent. of the sugar output, posts its prices daily and these prices are generally followed by its rivals.

Mr. Bryon W. Holt, of the New England Free Trade League, stated some years ago the following striking conclusion which may be considered as accurate to-day:

"Out of the four hundred trusts which I have enumerated, I do not believe that ten have lowered prices. In fact, I know of none, except one or two, and these have depreciated the quality of their product. . . . In nine cases out of ten, trusts have raised prices—often more than fifty per cent."

While it is true that since 1895 prices generally

have advanced as a result of business activity, great prosperity, and an increased demand from the public, yet the prices charged by the giant corporations have almost invariably been higher than the prices charged by small competitors.

To avoid inviting competition, prices must be kept within reasonable limits. No monopoly, not founded on some exclusive governmental privilege, can long exist unless it is based upon superior excellence of the product, coupled with economy of manufacture and a reasonable charge to the public. There is, however, a considerable range within which corporations may raise prices without calling potential competition into positive activity; and most of the giant corporations in the United States are charging the public prices, which, while not so high as to invite competition or to provoke violent resistance from consumers, are yet so high as to operate as a direct and unjust tax upon the people which no government should permit to be levied.

A MONOPOLY IN CERTAIN MATERIALS SECURED TO CORPORATIONS BY THE TARIFF ACT IS A WELL RECOGNIZED DANGER.

It has been claimed that the tariff is the mother of monopolies, and that in order to destroy the monopolies, the tariff act must be repealed. The advocates of this remedy do not seem to realize that large combinations of capital exist in free-



trade England and in France and in Germany, and that the lowering or breaking down of the American tariff wall would have the following effect: (a) the wages of labor in America would be lowered to meet the wages of European working men in order to keep the wheels of industry in this country from being stopped; (b) or if the American working men should refuse to consent to the reduction of their wages to the level of the wages paid to European working men, foreign "trusts" would be substituted for domestic "trusts" in the control of our markets, and idleness would be the lot of the American working men. The American union of capital might be destroyed, but with it would go down the American laborer.

Moreover, the fact is often overlooked that there are large "trusts" in the United States whose products are not protected by the tariff.

"Within a protected country," asserts Mr. J. Lawrence Laughlin, "a given industry is open to any one having the capital and desire to enter it; domestic competition can be as keen in a protected as in a non-protected industry; and, consequently, fierce rivalry can lead to combination as well in industries protected by duties as in any others."<sup>1</sup>

Whatever may be said about the wisdom of fencing our country about with a tariff wall, the fact remains that American industries have been

<sup>1</sup> *Industrial America*, p. 133.

built up under tariff protection and that many lines of industry are, in a large measure, still dependent upon it. It is undoubtedly true that there are tariff rates which are excessive rather than protective and that several giant corporations are unduly favored. Such a condition must necessarily arise as a result of the changing commercial and industrial conditions in our growing and expanding markets. But we cannot forget the depression in the business life and the paralysis that almost destroyed American industries in 1893 as the result of the effort of Congress to change the schedule of tariff duties.

Instead of destroying the mother, would it not be saner and more productive of prosperity to bring up and control the children so that they may become useful members of the business world? "The question of regulation of the trusts," President Roosevelt has well said, "stands apart from the question of tariff revision."

Hon. William J. Bryan, in considering the tariff as a weapon with which to control "trusts," advocates the passage of "a law authorizing the admission, duty free, of articles entering into competition with the products of a convicted trust," and asserts that such a law "would act as a powerful deterrent to monopolistic combinations."<sup>1</sup>

While the existence of such a law as proposed by Mr. Bryan would undoubtedly "act as a powerful

<sup>1</sup> *The Reader*, May, 1907, p. 577.

deterrent to monopolistic combinations," its execution would be more productive of harm than of good. True, the "convicted trust," as a punishment for its wrong-doing, would be obliged to face foreign competition with all the attendant losses, but the infliction of the penalty would not stop there. It would be inflicted upon the innocent, independent, non-trust, American competitor with the same force and effect as it would be visited upon the criminal. The "trust," possessing resources larger than those of its American competitors, would be better able to withstand the competition of foreign rivals and while it might be crippled in its future business life, it might not be destroyed as would possibly be the case with its financially weaker home competitors. The proposed law would, in its execution, not only punish the guilty, but, at the same time, would bankrupt the innocent who should enjoy the protection of the government in their efforts to bring about competition with the "trust," thereby preventing the "trust" from charging exorbitant prices for its product.

#### A TWOFOLD PROBLEM

That a giant corporation has a "Dr. Jekyll and Mr. Hyde" character, is now fully recognized, and the mission of the student of economics is to devise a plan which will preserve the good and

valuable features of corporate combination and at the same time eliminate the evils existing in corporate organization and corporate management.

Every corporation or consolidation of corporations into one corporate body is not a "trust." Every aggregation of capital is not a public danger. Corporations are no better and no worse than the individuals who manage them. Some corporations are honest, honorable, and law-abiding, and are entitled to the same protection, support, and encouragement of the laws that are given to the upright individual citizen. The corporate charter is only a cloak covering the men upon whom it rests.

Would it be practicable to destroy corporations, thereby closing the doors of ninety per cent. of our factories, turning out of employment thousands of men, tying up billions of capital, stopping production, creating high prices for the merchandise in existence, and bringing upon our country a panic, the severity and magnitude of which the world has never known? The giant corporation is the logical outcome of the industrial development of the world; and, as such, it may be destroyed in form but not in essence.

It is useless to make our laws more drastic and to try in that way to break up the great combinations now existing and to prevent the formation of others. Business life cannot be forced back to the conditions prevailing half a century ago. No



body of men can legislate us back to the partnership days, or to the individualistic method of doing business any more than they can legislate us back to the stage-coach. The world of industry always marches forward. The combination idea has come to stay, law or no law.

The situation must be faced as it exists in the United States at the present time. Economic conditions must be recognized and industrial movements taken into account, while the underlying principles of commercial life must not be forgotten.

Since many combinations have advanced the prices of the articles they produce or control to so high a figure as to wrong the people, and since stock-watering and selfish ruinous financiering have become the common attributes of corporate management, and since legal secrecy protects the illegal, fraudulent, and unholy dealings of the corporation with the public, it is imperative that this new force which stands merely for the latest stage of industrial growth should be controlled by law.

## II

### STATE OR FEDERAL CONTROL

STATE CONTROL.—The bidding of the States for the chartering of corporations has created a body of laws which confer great powers on those who are willing to pay a small incorporation tax in exchange for such privileges. So little supervision and control are now exercised by the State governments that corporations are able, through the secrecy which surrounds their actions, to override the law and to some extent to be creatures subject only to the wishes and desires of the corporate managers.

Mr. James B. Dill, in an address before the Seminary in Economics of Harvard University, March 10, 1903, summarized very clearly one of the grave evils of State control of corporations engaged in interstate trade:

“We find some charter-granting States legislating for the following classes of corporations:

“1. Corporations organized primarily for the purpose of doing business outside the State.

“2. Corporations organized for the purpose of



doing without the State business which is forbidden within the State which created them.

"3. Those formed for the purpose of doing their business as an entity outside the State, being specifically forbidden by their charters from operating or carrying on such business in the State which created them.

"4. For the express purpose of doing business in evasion, sometimes in violation, of the law of a State into which they purpose to go and operate." <sup>1</sup>

The record of the past few years has vindicated the truth of the statement contained in the Report of the Committee on the Judiciary, referred to the House of Representatives on May 25, 1900:

"If a State has within its limits a gigantic trust or monopoly, while it may and in some cases has limited its powers or annulled its charter, such State is not apt to destroy it by amending or annulling its charter, or imposing restrictions. So long as such monopoly employs thousands of hands, receives and pays out millions of dollars to the people of the State, and pays thousands of dollars in taxes into the State and local treasuries mainly drawn from the people of other States, and withal exerts vast political power, the State is liable to act on the theory, true or false, that the benefits derived from the existence of such monopoly within her borders are far greater than the injury done. The other States whose people feed this giant octopus, the tentacles of which sap

<sup>1</sup> *American Journal of Sociology*, vol. ix., p. 222.

their vitals, are powerless or inactive for the reasons stated."

Mr. Ray of New York, in a debate in the House of Representatives May 13, 1900, summarized very clearly the laws which render the States powerless to protect themselves. He said:

"The States cannot protect themselves against monopoly, combinations, and conspiracy to monopolize manufacture and production and fix and control prices, for the following reasons:

"1. The State has no power whatever over interstate commerce; interstate transportation of persons or property.

"2. The State has no power to prevent the corporations, associations, companies, or citizens of another State from coming into it and doing business therein if engaged in interstate commerce.

"3. No State has power over the corporations, associations, companies, or citizens of another so long as they remain outside of her territorial limits.

"4. No State has power to prevent the sending or bringing into her limits the manufactures or products of corporations, associations, companies, or individuals, organized, doing business, or residing in another, for use, even with the consent of Congress, or for any other purpose without such consent.

"5. No State can prevent the purchase or control of the stock, property, etc., of its corporations, associations, companies, or citizens by those chartered, organized, or residing in another.

"The result is that a monopoly existing in one State

and controlling the production, ownership, and price of an article of general use and necessity may, unless Congress intervenes when sent for sale, . . . send its productions into every State and supply the market there." <sup>1</sup>

An important decision regarding the power of a State to exclude a foreign corporation or impose conditions on its admission was rendered by the Circuit Court of Appeals, Eighth Circuit, in *Butler Bros. Shoe Co. v. United States Rubber Co.* in October, 1907. The court held that the broad statement in *Paul v. Virginia*, 8 Wall, 168, that a State may exclude a foreign corporation, or impose such conditions as it deems proper on the right of such corporation to do business within the State, has been qualified by subsequent decisions of the Federal Supreme Court, and the following exceptions to it are established: (1) Every corporation empowered by the State of its creation to engage in interstate commerce may carry on that commerce in sound and recognized articles of commerce in every other State in the Union. Every prohibition, obstruction, or burden which the other States attempt to impose upon such business is unconstitutional and void. (2) Every corporation of every State which is in the employ of the United States has the right to exercise the necessary corporate powers and

<sup>1</sup> 33 *Congressional Record*, p. 668.



to transact the requisite business to discharge the duties of that employment in every other State in the Union, without let or hindrance from the latter. (3) Every corporation of every State has the absolute right to institute, maintain, and defend in the Federal courts, and to remove to those courts, its suits in any other State in the cases and on the terms prescribed by the Acts of Congress. The court held that the constitution and statutes of Colorado, prohibiting any foreign corporation from doing any business whatever, from exercising any corporate power, and from prosecuting or defending any suit in that State unless it file certain writings, pay certain fees, etc., were unconstitutional in so far as they attempted to limit the exercise in that State by a foreign corporation of its right to engage in interstate commerce and to institute and defend in the Federal courts suits arising out of that commerce.<sup>1</sup>

The individual States have no right to interfere with interstate commerce, or with the objects of interstate commerce, as neither the United States Constitution nor Congress has specifically delegated such power to them, and, to-day, corporations may be organized in one State and ship their goods into all other States, and thereby nullify the effect of any State law looking to the control and regulation of corporations. No matter how wise and conservative may be the laws

<sup>1</sup> 156 Fed. Rep., 1.

enacted in a single State, corporations can be organized in any other State and carry on business with the citizens of all the States in the Union. No State can tax the agents of a foreign corporation, nor shut out its goods nor tax the goods while in transit; and even if it should deny to the foreign corporation the right to sue in the State courts to recover the price of the goods sold, the foreign corporation could not be prevented from pursuing the same remedies in the Federal courts.

The United States Supreme Court has declared:

"It is not in the power of one State, when establishing regulations for the conduct of private business of a particular kind, to give its own citizens essential privileges connected with that business, which it denies citizens of other States."<sup>1</sup>

The futility of State control over corporations engaged in interstate and foreign trade has become so apparent that the American people, though much against their wishes, are compelled to turn for protection to the Federal government.

FEDERAL CONTROL.—The Constitution of the United States provides that Congress shall have the power and authority "to regulate commerce with foreign nations and among the several States" (Art. I, Sec. VIII., Clause III.); "to lay and collect taxes, duties, imports, and excises" (Art. I, Sec.

<sup>1</sup> *Blake v. McClung*, 174 U. S., 239.

VII., Sub. 1); and "to make all laws which shall be necessary and proper for carrying into execution the foregoing powers" (Art. 1, Sec. VIII., Sub. 18).

The origin of the "commerce clause" is found in the sixth resolution submitted to the Constitutional Convention by Edmund Randolph on the 29th day of May, 1787. This resolution, outlining the commercial powers which should belong to the Federal government, stated:

"That the national legislature ought to be empowered to enjoy the legislative right vested in Congress by the Confederation; and, moreover, to legislate in all cases to which the separate States are incompetent, or in which the harmony of the United States may be interrupted by the exercise of individual legislation."<sup>1</sup>

The question immediately arises as to whether the national government has the power to create corporations as a "necessary and proper" means for "carrying into execution" its authority "to regulate commerce with foreign nations and among the several States."

"Commerce," as the word is used in the Constitution, has received from the courts the broadest definition. It includes the exchange of goods, the transportation of merchandise, the transit of individuals, navigation, the transmission of intelligence from one State to another or from one State

<sup>1</sup> *Elliott's Debates* (Wash., 1836), vol. i., p. 144.



to a foreign country, and, in fact, every species of commercial intercourse among the States.<sup>1</sup> Its meaning is extended not only to the goods which are transported, but it "also embraces within its control all the instrumentalities by which that commerce may be carried on, and the means by which it may be aided and encouraged."<sup>2</sup>

Chief Justice Marshall, in *M'Culloch* against the State of Maryland, in discussing the powers of the United States government as defined by the Constitution, said:

"Among the enumerated powers, we do not find that of establishing a bank or creating a corporation. But there is no phrase in the instrument which, like the articles of confederation, excludes incidental or implied powers, and which requires that everything granted shall be expressly and minutely described. . . . We find the great powers to lay and collect taxes; to borrow money; to regulate commerce. . . . The instrument does not profess to enumerate the means by which the powers it confers may be executed; nor does it prohibit the creation of a corporation, if the existence of such a being be essential to the beneficial exercise of those powers. . . . The power of creating a corporation, though appertaining to sovereignty, is not, like the power of making war, or levying taxes, or of regulating commerce, a great substantive and

<sup>1</sup> *Gibbon v. Ogden*, 9 Wheat., 190, *Champion v. Ames*, 188 U. S., 353.

<sup>2</sup> *Gloucester Ferry Co. v. Penn.*, 114 U. S., 196, 204, *Hopkins v. United States*, 171 U. S., 598.

independent power, which cannot be implied as incidental to other powers, or used as a means of executing them. It is never the end for which other powers are exercised, but a means by which other objects are accomplished. . . . The power of creating a corporation is never used for its own sake, but for the purpose of effecting something else. No sufficient reason is, therefore, perceived why it may not pass as incidental to those powers which are expressly given, if it be a direct mode of executing them. But the Constitution of the United States has not left the right of Congress to employ the necessary means for the execution of the powers conferred on the government to general reasoning. To its enumeration of powers is added that of making 'all laws which shall be necessary and proper for carrying into execution the foregoing powers; and all other powers vested by this Constitution in the government of the United States, or in any department thereof. . . .' Congress is not empowered by it to make all laws which may have relation to the powers conferred on the government, but such only as may be 'necessary and proper' for carrying them into execution. The word 'necessary' is considered as controlling the whole sentence; and as limiting the right to pass laws for the execution of the granted powers to such as are indispensable, and without which the power would be nugatory. . . . Is it true that this is the sense in which the word 'necessary' is always used? Does it always import an absolute physical necessity, so strong that one thing, to which another may be termed necessary, cannot exist without that other? We think it does not. . . . To employ the means necessary to an end,

is generally understood as employing any means calculated to produce an end, and not as being confined to those single means, without which the end would be entirely unattainable. . . . We think the sound construction of the Constitution must allow to the national legislature that discretion, with respect to the means by which the powers it confers are to be carried into execution, which will enable that body to perform the high duties assigned to it in the manner most beneficial to the people. Let the end be legitimate, let it be within the scope of the Constitution, and all means which are appropriate, which are plainly adapted to that end, which are not prohibited, but consist with the letter and spirit of the Constitution, are constitutional.

“That a corporation must be considered as a means not less usual, not of higher dignity, not more requiring a particular specification than other means, has been sufficiently proved. If we look to the origin of corporations, to the manner in which they have been framed in that government from which we have derived most of our legal principles and ideas, or to the uses to which they have been applied, we find no reason to suppose that a constitution, omitting, and wisely omitting, to enumerate all the means for carrying into execution the great powers vested in government, ought to have specified this. Had it been intended to grant this power as one which should be distinct and independent, to be exercised in any case whatever, it would have found a place among the enumerated powers of the government. But being considered merely as a means, to be employed only for the purpose of carrying into execution the given powers,

there could be no motive for particularly mentioning it." <sup>1</sup>

The soundness of the principles laid down in this decision has never been impugned by any court of the United States, and this case stands to-day as the authoritative dictum of the law of the land.

If the individual States have the right to require the filing of articles of incorporation and the performance of other stated acts as a pre-requisite to engaging in commerce or business within the confines of the State by a number of citizens who desire to act in a joint capacity, why has not Congress the same right to demand the performance of the same acts as a condition precedent to the privilege of engaging in interstate commerce?

Mr. Justice Harlan in the Northern Securities case said: "The power of Congress over interstate and international commerce is as full and complete as is the power of any State over its domestic commerce." <sup>2</sup>

Mr. Justice Bradley, speaking for the court in the case of *California v. Central Pacific Railroad Co.*, referring to the acts of Congress chartering corporations to build railroads across the continent, said:

"It cannot at the present day be doubted that

<sup>1</sup> 4 Wheaton, 403.

<sup>2</sup> 193 U. S., 342.



Congress, under the power to regulate commerce among the several States, as well as to provide for postal accommodations and military exigencies, have authority to pass these laws. . . . The authority of Congress over the territories of the United States, and its power to grant franchises exercisable therein, are, and ever have been, undoubted. But the wider power was very freely exercised, and much to the general satisfaction, in the creation of the vast system of railroads connecting the East with the Pacific, traversing States as well as territories, and employing the agency of State as well as Federal corporations.”<sup>1</sup>

Mr. Justice Gray, in delivering the opinion of the court in *Luxton v. North River Bridge Co.*, said:

“The validity of the Act of Congress incorporating the North River Bridge Company rests upon principles of constitutional law, now established beyond dispute. The Congress of the United States, being empowered by the Constitution to regulate commerce among the several States and to pass all laws necessary or proper for carrying into execution any of the powers specifically conferred, may make use of any appropriate means for this end. . . . Congress, therefore, may create corporations as appropriate means of exercising the powers of government.”<sup>2</sup>

EXERCISE OF FEDERAL POWER.—Congress, relying upon the decisions of the Supreme Court,

<sup>1</sup> 127 U. S., 157.

<sup>2</sup> 153 U. S., 810; see also *Champion v. Ames*, 188 U. S., 353.

from time to time has chartered banking, railway, telegraph, bridge, and canal companies, the validity of which acts remain unquestioned.

Among the corporations chartered by Congress to do business as interstate carriers may be cited the following:

Washington, Alexandria, and Georgetown Steam Packet Company, Act of March 3, 1829.

Union Pacific Railway Company, Acts of July 1, 1862, July 2, 1864, and March 3, 1865.

Northern Pacific Railroad Company, Acts of July 2, 1864, May 7, 1866, and July 1, 1868.

Atlantic and Pacific Railroad Company, Act of July 27, 1866.

Washington Mail Steamboat Company, Act of March 2, 1870.

Washington and Boston Steamship Company, Act of May 14, 1870.

Texas Pacific Railway Company, Act of March 3, 1871.

In 1886, the American people were aroused by the prevailing practice of common carriers of discriminating between shippers by giving to favorites unjust and unreasonable preferences and advantages, by carrying their goods at a less rate than was given to their competitors, and with a mighty voice insisted that Congress should exercise its power to regulate commerce by enacting a law which should secure to every one equal commercial opportunities and to place all shippers

on an absolute equality as to rates and tariffs. The result of this demand was the passage by Congress on February 4, 1887, of an act commonly known as the Interstate Commerce Law.

This Act provided for the appointment of a Commission with "authority to inquire into the management of the business of all common carriers" engaged in interstate commerce, and in case it found that the carrier had violated the law, to order it to desist and make reparation for the injury done. For a failure to obey the orders of the Commission, the Circuit Court of the United States could be called upon to compel their enforcement.

The Act further provided,

"That if any common carrier . . . shall directly or indirectly, by any special rate, rebate, drawback, or other device, charge, demand, collect, or receive from any person or persons a greater or less compensation for any service rendered, in the transportation of passengers or property, . . . than it charges, demands, collects, or receives from any other person or persons for doing for him or them a like or contemporaneous service in the transportation of a like kind of traffic under substantially similar circumstances and conditions, such common carrier shall be deemed guilty of unjust discrimination, which is hereby prohibited and declared to be unlawful."

The Act also required every common carrier under penalty of fine and imprisonment to file

with the Interstate Commerce Commission copies of its schedules of freight rates. It also prohibited the pooling of freights and the division of earnings.

This Act, while remedying many abuses, failed to prevent secret rebates from being given by common carriers. These secret rebates and discriminations enabled favored shippers to destroy competition in the lines of business in which they were engaged. To further their plans for controlling the market, the favored manufacturers organized combinations in the form of trusts, which enabled them to fix and maintain prices arbitrarily to the injury of the general public. This condition of affairs became so onerous and oppressive that on July 2, 1890, an act known as the Sherman Anti-Trust Law was passed by Congress "to protect trade and commerce against unlawful restraints and monopolies." This Act declared that

"Every contract, combination in the form of trust or otherwise, or conspiracy, in restraint of trade or commerce among the several States, or with foreign nations, is hereby declared to be illegal. Every person who shall make any such contract or engage in any such combination or conspiracy, shall be deemed guilty of a misdemeanor and, on conviction thereof, shall be punished by fine not exceeding five thousand dollars, or imprisonment not exceeding one year, or by both punishments, in the discretion of the court."



This law, which affected such wide-spread interests in such a vital manner, was meagre, indefinite, and uncertain in its description of the offences denounced and its interpretation was left to the courts as cases arose. Construed literally, this statute could be used to punish combinations of the most useful character, whose business arrangements are conceded by all to be legitimate and proper. And the difficulty the courts have had in its construction has been to draw a line which would furnish a clear rule for the guidance of the public between those acts which Congress intended to declare to be illegal and those acts with which Congress had no intention of interfering. It could not be expected, therefore, that the Act would prove effective, depending as it did on judicial interpretation to make it clear. Nevertheless, some evil conditions were remedied and our national lawmakers were educated in the requirements of a Federal law and in the pitfalls necessary to be avoided.

In view of the ineffectiveness of these laws to destroy the abuses of rebates and unfair concessions to favored shippers, on February 9, 1903, the Congress passed the so-called Elkins Act, thereby increasing the powers of the Interstate Commerce Commission, and declaring that "the wilful violation upon the part of any carrier . . . strictly to observe such [published] tariffs until

changed according to law, shall [constitute] a misdemeanor"; and further declaring it to be unlawful "for any person, persons, or corporations to offer, grant, or give, or to solicit, accept, or receive any rebate, concession, or discrimination in respect to the transportation of any property in interstate or foreign commerce by any common carrier . . . whereby any such property shall by any device whatever be transported at a less rate than that named in the tariffs published and filed by such carrier," and providing that "every person or corporation who shall offer, grant, or give, or solicit, accept, or receive any such rebate, concession, or discrimination, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine of not less than one thousand dollars nor more than twenty thousand dollars."

To further facilitate the work of the Interstate Commerce Commission the Congress on February 14, 1903, passed an act creating the Department of Commerce and Labor and establishing in such department a Bureau of Corporations with a Commissioner empowered to make

"diligent investigation into the organization, conduct, and management of the business of any corporation, joint stock company, or corporate combination engaged in commerce among the several States and with foreign nations excepting common carriers . . . and to gather such information and data as will enable

the President of the United States to make recommendations to Congress for legislation for the regulation of such commerce."

In furtherance of these provisions the Commissioner was given power to "subpoena and compel the attendance and testimony of witnesses and the production of documentary evidence and to administer oaths."

After several months of earnest and full discussion of the powers of Congress to enlarge upon the laws already enacted, Congress on June 29, 1906, passed an act popularly known as the Railway Rate Bill, which still further increased the powers of the Interstate Commerce Commission and gave to this body larger and more complete control over common carriers engaged in interstate and foreign commerce.

This Act empowers the Commission, if upon complaint it finds that a rate, or any regulation or practice affecting a rate, is "unjust or unreasonable, or unjustly discriminatory, or unduly preferential, or prejudicial," to determine and prescribe a maximum rate to be charged thereafter and modify the regulation or practice pertaining thereto.

It further authorizes the Commission to require annual reports from all common carriers, that shall contain specified information; to prescribe the form of any rate and all accounts, records, and memoranda to be kept by carriers, making it

unlawful for the carriers to keep any other accounts, records, or memoranda than those prescribed or approved by the Commission; and provides, further, that all accounts of the carriers shall be open to the inspection of the special agents or examiners employed by the Commission.

On June 30, 1906, Congress passed the Pure Food Law. This law prohibits the manufacture, sale, or transportation of adulterated or deleterious foods, drugs, medicines, and liquors. It requires all manufacturers to file with the Department of Agriculture a guaranty to the effect that the food or drug is not adulterated or mislabelled before any such article is admitted to interstate commerce.

The Meat Inspection Law enacted March 4, 1907, provides for meat inspection from hoof to can at government expense as a preliminary to the entrance of such products into interstate and foreign commerce.

The scope of the Act is set forth in the following provision:

"For the purpose of preventing the use in interstate or foreign commerce, as hereinafter provided, of meat and meat food products which are unsound, unhealthful, unwholesome, or otherwise unfit for human food, the Secretary of Agriculture, at his discretion, may cause to be made, by inspectors appointed for that purpose, an examination and inspection of all cattle, sheep, swine, and goats, before



they shall be allowed to enter into any slaughtering, packing, meat-canning, rendering, or similar establishments in which they are to be slaughtered, and the meat and meat food products thereof are to be used in interstate or foreign commerce; and all cattle, swine, sheep, and goats found on such inspection to show symptoms of disease shall be set apart and slaughtered separately from all other cattle, sheep, swine, or goats, and when so slaughtered the carcasses of said cattle, sheep, swine, or goats shall be subject to a careful examination and inspection, all as provided by the rules and regulations to be prescribed by the Secretary of Agriculture as herein provided for."

The Pure Food and Meat Inspection Laws, in effect requiring a license to engage in interstate and foreign commerce, are the most advanced steps taken by Congress to control the articles entering into interstate trade.

There has been a distinct evolution in the recognition of the power of Congress over the agencies engaged and the articles transported in interstate and foreign commerce, and it can be predicted with confidence that there will be a further advance along these lines. This is the spirit of the times and the movement is irresistible.

Interstate commerce in the 18th century was simple in its relations. The business of each State was its own. Giant enterprises owned in one State and engaged in commerce in other States, so as to become subject to their jurisdiction, were few

and comparatively unimportant. This condition existed practically unchanged for eighty years, and the "commerce clause" remained almost unmentioned during that time. During the past thirty years, however, the changed commercial conditions have made this clause to become the most important and conspicuous clause in the Federal Constitution.

The political doctrine of State rights is rapidly growing weaker while that of centralized democracy or federation is daily gaining in popular favor. The people, realizing how great is the failure of the individual States in curbing and controlling the economic and industrial agencies which are overriding the rights of citizens, are seeking to accomplish through the agency of the national government the protection they vitally need.

Mr. Elihu Root, our present Secretary of State, in an address before the Pennsylvania Society in New York on December 12, 1906, said:

"The Federal Anti-Trust Law, the Anti-Rebate Law, the Railroad Rate Law, the Meat Inspection Law, the Oleomargarine Law, the Pure Food Law, are examples of the purpose of the people of the United States to do through the agency of the national government the thing which the separate State governments formerly did adequately, but no longer do adequately.

" . . . The governmental control which they [the people] deem just and necessary they will have. It may be that such control could better be exercised

in particular instances by the governments of the States, but the people will have the control they need either from the States or from the national government, and if the States fail to furnish it in due measure, sooner or later constructions of the Constitution will be found to vest the power where it will be exercised by the national government."

Criticisms and denunciations of Mr. Root's address came from all parts of the country. The cry of imperialism was raised throughout the land. But Mr. Root was not expressing his personal views; he was not announcing a policy; not forecasting what a political party might bring to pass, but was simply giving a historical review of the past ten years together with an accurate picture of the present-day movements in the United States.

President Roosevelt in his address before the Harvard Union, February 23, 1907, said in regard to such criticisms:

"There has been a curious revival of the doctrine of State rights in connection with these questions [the control of corporations in the interest of the public] by the people who know that the States cannot with justice to both sides practically control the corporations, and who, therefore, advocate such control because they do not venture to express their real wish, which is, that there shall be no control at all. . . .

"But those who invoke the doctrine of State rights to protect State corporate creations in predatory activities extended through other States are as short-

sighted as those who once invoked the same doctrine to protect the special slaveholding interest. The States have shown that they have not the ability to curb the power of syndicated wealth and, therefore, in the interest of the people, it must be done by national action."

In considering the extension of the application of the powers of Congress, the fact should be kept clearly in mind that the States possess the sole right and power to provide regulations for intra-state commerce, that is, for commerce the transportation of which begins and ends in the State. They have no power, however, to regulate commerce passing through and into two or more States. To meet this condition the Constitution of the United States provides that Congress shall have power to regulate commerce between the States. For Congress to regulate interstate commerce, therefore, would in no wise interfere with nor limit the powers vested in the individual States to regulate the commerce carried on solely within their several jurisdictions.

"Centralization has already taken place out there in the world of commerce and industry," said Judge Charles F. Amidon of the United States District Court for North Dakota. And he added: "The only question remaining is: 'Shall the government take cognizance of the fact?'"

The various acts passed by Congress looking to the control of the agencies engaged in interstate commerce are but an indication of the slow process



of nationalization which this federal union of States has been going through since the Union was formed—a progressive process, without which the experiment of a federal republic, on a scale of such magnitude, under such conditions of expansiveness, could never have been a success.

The Supreme Court of the United States in a recent decision clearly defines and forcibly announces the adaptability of the Federal Constitution to the national growth and development of our country. It says:

“The Constitution is a written instrument. As such, its meaning does not alter. That which it meant when adopted, it means now. Being a grant of powers to a Government its language is general, and, as changes come in social and political life, it embraces in its grasp all new conditions which are within the scope of the powers in terms conferred. In other words, while the powers granted do not change, they apply from generation to generation to all things to which they are in their nature applicable. This in no manner abridges the fact of its changeless nature and meaning.”<sup>1</sup>

Congress has recently been giving some consideration to the subject of Federal control of all the agencies engaged in interstate and foreign commerce by compelling all who wish to engage in such trade to act only under Federal charter. Various bills have been introduced looking to the

<sup>1</sup> *South Carolina v. U. S.*, 199 U. S., 448-9 (1905).

establishment of a Federal corporation department, and President Roosevelt has been persistent in his efforts to crystallize public opinion so that Congress will be compelled in the near future to enact a Federal corporation law.

For the past fifteen years, under the growth of gigantic combinations of capital whose operations are interstate or international, the American people have been growing more and more convinced of the necessity of the Federal government extending its power to control and regulate those agencies over which the individual States have no jurisdiction. From year to year as these commercial and industrial agencies have grown in power and become more arrogant in practice, Congress has been extending its protecting arm to prevent injustice and evil being visited upon the people. So great have grown the evils under the operation of the giant corporations that it may be confidently predicted that the American people will soon insist that Congress shall exercise its power to bring relief to them.

Former Commissioner James R. Garfield of the Bureau of Corporations, in his first report, issued in December, 1904, after reviewing the decisions of the Supreme Court of the United States as to the powers of Congress to enact a Federal corporation law, summarizes his brief as follows:

"It may be considered as established that . . . Congress may:

“ (1) Create corporations as a means of regulating interstate commerce.

“ (2) Give to such corporations the power to engage in interstate or foreign commerce.

“ (3) Prohibit any other corporations or individuals from engaging in the same.

“ (4) As a condition precedent to the grant of such corporate power, lay any restrictions it chooses upon the organization's conduct or management of such corporation.

“ (5) Tax interstate commerce at will and the instrumentalities and corporations engaged therein.

“ (6) Provide regulations for the carrying on of interstate commerce generally and in such local affairs as are now left to the States in the ‘silence of Congress’ under the principle established in *Cooley v. Port Wardens* (12 How., 229), and in the carrying out of such powers it may use any or all means ‘which are appropriate, which are plainly adapted to that end, which are not prohibited, but consistent with the letter and spirit of the Constitution.’ ”

The power of Congress to regulate interstate commerce being almost limitless, the task in hand is to devise a system of laws which, while preserving the benefits of private ownership, shall, at the same time, furnish adequate means to supervise, regulate, and control corporations engaged in interstate and foreign commerce, so that the good features in corporate life may be fostered and the evil features be eliminated.

### III

#### THE SOLUTION

THE Constitution of the United States having vested in Congress the power "to regulate commerce with foreign nations and among the several States," and the Supreme Court having decided that the national legislature has the authority "to pass all laws necessary or proper for carrying into execution any of the powers specifically conferred" upon the Federal government, it is suggested that a national incorporation law embodying the following provisions be enacted by Congress.

BUREAU OF CORPORATIONS.—The power and authority of the Bureau of Corporations in the Department of Commerce and Labor should be enlarged so as to include the right to grant charters of incorporation to all who seek to engage in interstate or foreign commerce. This Bureau should have not only this power, but all individuals, corporations, joint stock companies, and other forms of organization now existing or which hereinafter may be chartered by a State government, should be prohibited from engaging in



interstate and foreign commerce until chartered by it. This prohibition would have no effect on the corporations chartered by State governments whose operations are confined within the limits of the State creating them. But, if the corporations extend their activities beyond the boundaries of the State of their creation and over into other States, and enter into commerce with citizens of different States, thereby furnishing a basis for the jurisdiction of the national courts, they have gone beyond the control of the State granting the charter and have voluntarily brought their organization under Federal power, to which they should render allegiance.

This prohibition can be enforced by taxing all agencies engaged in interstate and foreign trade not organized by this Department, so heavily as to compel them to seek refuge under a Federal charter. Such tax should be laid on the amount of the gross sales made in interstate business, in order to prevent the reduction of the tax by the deduction of padded charges in arriving at so-called net sales.

Such a plan was put in operation during the Civil War, when the United States government, becoming obliged to secure a market for its bonds, placed a prohibitive tax of ten per cent. on the issue of banknotes by State banks, by means of which tax the notes of State banks quickly went out of circulation because there was no profit in

their issue and a majority of the State banks were forced to accept national charters and to buy United States bonds.

In *Veazie Bank v. Fenno* the Supreme Court in discussing the constitutionality of the Federal tax on State bank notes said:

"Having thus, in the exercise of undisputed constitutional powers, undertaken to provide a currency for the whole country, it cannot be questioned that Congress may, constitutionally, secure the benefit of it to the people by appropriate legislation. Viewed in this light, as well as in the other light of a duty on contracts or property, we cannot doubt the constitutionality of the tax under consideration."<sup>1</sup>

The Supreme Court in *National Bank v. United States*, said with regard to the tax placed on banknotes:

"The taxation was no doubt intended to destroy the use; but that, as we have just seen, Congress has power to do."<sup>2</sup>

Since the Civil War the United States has maintained an extensive system of excise taxes on the manufacture of liquors, tobacco, and various other goods, although for some time past the manufacture of such articles has been conducted by State corporations. Such taxes have been

<sup>1</sup> 8 Wallace, 533. Affirmed in *National Bank v. United States*, 101 U. S., 1.

<sup>2</sup> 101 U. S., 1.

upheld as legal by the Supreme Court during the forty years of their extensive application.

The tax imposed by Congress, in the War Revenue Act of 1898, on sales made at exchanges or boards of trade came before the Supreme Court in the case of *Nicol v. Ames*. Replying to the contention that the tax was direct and yet not apportioned according to population, the Court said that the tax was an excise laid upon the privilege offered at boards of trade, and was indirect. To the further contention that the tax though indirect, was not uniform, the Court said:

"In this case there is that uniformity which the Constitution requires. The tax or duty is uniform throughout the United States, and it is uniform or, in other words, equal, upon all who avail themselves of the privileges or facilities offered at the exchanges; and it is not necessary, in order to be uniform, that the tax should be levied upon all who make sales of the same kind of things, whether at an exchange or elsewhere."

The Court further laid down this rule affirming the principle enunciated by the Supreme Court in *National Bank v. United States* in regard to the Federal power to tax:

"The power to tax is one great power upon which the whole national fabric is based. It is as necessary to the existence and prosperity of a nation as is the air he breathes to the natural man. It is not only the

power to destroy, but it is also the power to keep alive."<sup>1</sup>

"The power to tax," said the court in *Veazie Bank v. Fenno*, "may be exercised oppressively upon persons, but the responsibility of the legislature is not to the courts, but to the people by whom its members are elected. So if a particular tax bears heavily upon a corporation or a class of corporations it cannot for that reason only be pronounced contrary to the Constitution."<sup>2</sup>

In the Lottery cases the Supreme Court declared that the carriage of a lottery ticket from State to State was interstate commerce and could be prohibited by Congress, and added:

"The Act of July 2, 1900, known as the Sherman Anti-Trust Law, which is based upon the power of Congress to regulate commerce among the States, is an illustration of the proposition that regulation may take the form of prohibition. The object of that Act was to protect trade and commerce against unlawful restraint and monopolies; to accomplish that object, Congress declared certain contracts to be illegal. That Act in effect prohibited the doing of certain things, and its prohibitory clauses have been sustained in several cases as valid under the power of Congress to regulate interstate commerce."<sup>3</sup>

Chief Justice Marshall in *M'Culloch v. Maryland* said: "The power to tax involves the power

<sup>1</sup> 173 U. S., 509-515.

<sup>2</sup> 8 Wallace, 533.

<sup>3</sup> 188 U.S., 321.



to destroy" <sup>1</sup>; hence, corporations chartered by a State government and engaged in interstate and foreign commerce may not only be regulated but may be destroyed by taxes imposed by Congress.

Unless the Bureau of Corporations has the sole right to incorporate associations engaged in interstate and foreign commerce, the purpose of this plan would be defeated. Sub-companies would be organized in the different States, with or without the intervention of a holding company, and would not be subject to the control and regulation of this Bureau.

This Bureau should have not only the sole right to incorporate associations engaged in interstate and foreign commerce, but it should have absolute charge and complete control of its corporate children.

This power to create corporations to engage in interstate and foreign commerce which is vested in the Federal government, the individual States can in no wise interfere with, neither can they in any manner hinder, impede, or lay any burden on any corporation chartered by the United States. Chief Justice Marshall, in *M'Culloch v. State of Maryland*, said:

"This great principle is, that the Constitution and the laws made in pursuance thereof are supreme; that they control the constitution and laws of the

<sup>1</sup> 4 Wheaton, 316.

respective States, and cannot be controlled by them. From this, which may be almost termed an axiom, other propositions are deduced as corollaries, on the truth or error of which, and on their application to this case, the cause has been supposed to depend. These are, 1st, that a power to create implies a power to preserve. 2d. That a power to destroy, if wielded by a different hand, is hostile to, and incompatible with these powers to create and to preserve. 3d. That where this repugnancy exists, that authority which is supreme must control, not yield to that over which it is supreme. These propositions, as abstract truths, would, perhaps, never be controverted." <sup>1</sup>

INCORPORATION TAX.—Every corporation incorporated by this Bureau should pay an organization tax of one tenth of one per cent. upon the amount of capital stock authorized, and a like tax upon any subsequent issue.

The average organization tax in the various States is about one tenth of one per cent. Experience has shown that this is the rate which incorporators are willing to pay for the privilege of owning a corporate charter and the amount that has been considered to be a reasonable charge for granting such privilege.

The incorporation tax should be so low as to deter no group of men from carrying on business in a corporate capacity, for it is to corporations, with their large aggregation of capital, that we

<sup>1</sup> 4 Wheaton, 424.

must look for the development of our country. Corporations, when backed by large capital, expert skill, and great business ability, have often conferred material benefit on the community at large, and almost invariably insured the promotion of prosperity on a durable basis. They have furnished the people with many of the commodities of civilized existence at much lower prices than formerly, not only without decreasing the wages of labor, but in many instances increasing them, and eventually extending the field for a larger number of employees. India-rubber goods, tobacco, leather, and a great variety of other commodities are cheaper than at any former period of our country's existence; and wages are higher to-day than they have ever been, except in war times. Without corporations, the great railway systems of our country could not have obtained the capital required to cover our land with a network of rails and could not carry freight and passengers at the low rates charged to-day.

Without corporations, our manufacturers could not compete with the corporations of England, France, and Germany in the race for the Asiatic and the South American markets.

✓ The productive power of the people of the United States to-day far exceeds the consumptive power, and the alternatives presented are: either to lessen production, diminish employment, and lower wages, or to obtain new markets and find new channels for the surplus products.

To extend our markets, and thereby provide an outlet for our surplus products and thus give constant employment to our workers and toilers, is the crying necessity of our economic life; and, in order to obtain these markets, foreign giant corporations must be met and conquered by more powerful and far greater aggregations of capital, organized in the form of corporations.

LIABILITY OF STOCKHOLDERS AND DIRECTORS.—The stockholders and directors of corporations organized under the Corporation Bureau should be personally liable only to the following extent:

The stockholders should be personally liable,

(a) To creditors, to an amount equal to the amount unpaid on the stock held by each stockholder.

(b) To the laborers, servants, and employees other than contractors, for services performed by them for such corporation.

The directors should be personally liable,

(a) For declaring dividends from any fund other than from the surplus profits arising from the business of the corporation.

(b) For loaning corporation money to any stockholder, or consenting to the corporation discounting any note or other evidence of debt of any stockholder.

(c) For violating any of the provisions of this act or any law of the United States applicable to corporations.



The liability of stockholders and directors of corporations, except for violations of law or breach of trust, should be so limited as to deter no one from contributing his money to corporate enterprises. The provisions of this plan provide sufficient protection to creditors and to the general public, and no additional burdens to those hereinbefore set forth need be placed on corporate stockholders and corporate directors.

PROSPECTUS OR ADVERTISEMENT.—Every prospectus or advertisement issued or published with a view of obtaining subscriptions for shares or for bonds of a corporation, organized or to be organized by this Bureau, should give full details as to its organization; the contracts into which the promoters or organizers have entered; the earnings for the two previous years of all underlying corporations; the amount of money to be used for preliminary expenses and the amount to be reserved for working capital; and all information necessary for safe and intelligent investment. For a false statement, or the issuing of a prospectus which does not make a full disclosure of the corporate affairs, the promoters and their associates, the officers and their agents, should be legally liable, both civilly and criminally. This penalty would add greatly to the responsibility of directors, who should be men who direct, not dummy officials leading the trusting blind public to financial disaster.

This knowledge is at present inaccessible. The investor who puts money into a giant corporation must guess as best he can what property he is getting, and the guess is often a bad one for him. The making public of the above-mentioned facts will remove the gravest evils from stock-watering. If the investor knows that there is only one dollar of property back of every three dollars of stock and bonds, which is the case with so many corporations whose shares are listed on the exchanges to-day, he will be in a position to know at what figure to buy in order to make his investment safe.

When appeals are made to the public to subscribe to the capital of undertakings, it should be made obligatory on the corporate promoters, organizers, and officers to disclose every fact known to them and unknown to the public, in order that everything be open and above board, and the promoters, officers and public alike, may act with equal information in regard to the organization and the conduct of such companies.

Corporations now in existence and engaged in interstate or foreign trade, and desiring to obtain a charter from this Bureau, should furnish to the Commissioner a detailed history of its organization and an itemized list of its assets and liabilities, a summary statement of which should be published in such newspaper as may be designated by the Commissioner. By the possession of this report

the Bureau would be placed in a position whereby it could investigate intelligently the affairs of the corporation and be able rightly to supervise its future corporate life.

Similar requirements conferring upon the promoters of industrial and railroad companies a high degree of responsibility for the accuracy of the representations contained in the prospectuses which they address to potential investors are contained in the "New Companies" Act adopted by the English Parliament in 1900.

This Act prescribes eleven items of information which every prospectus shall contain and fixes penalties of fine or imprisonment, at the option of the courts, for wilful misstatement. Among the facts required to be stated in each prospectus are the number and amount of shares and bonds issued other than for cash, together with the consideration received for them; the amount paid or to be paid, in cash, shares, or otherwise, to each vendor of property purchased or to be purchased, with specifications showing each allowance for good-will; the commissions paid or to be paid on subscriptions; and the amount of preliminary expenses and payments to promoters. Each prospectus must also give the dates of and the parties to each material contract and name a reasonable place and time for the inspection of the original or copies.

Among the requirements as to promoters is one



that they shall not receive any commissions beyond those stated in the articles of association.

The effect of this Act has been most beneficial in preventing the entrapping of the unwary by misleading or false statements.

ANNUAL REPORT.—Every corporation should annually, during the month of January, make and file with the corporation department a statement as of the first day of January, verified by the oath of its president or vice-president and its secretary or treasurer, fully setting forth the following information:

(1) The name of the corporation and the place and date of its incorporation.

(2) The names, residence, and business or occupation of the officers and directors of the corporation.

(3) The business in which the corporation is actually engaged, and the States, territories, districts, or insular possession in which it is engaged in transacting such business, specifying a person residing in each such State and territory, who shall be designated by such corporation as its legal representative upon whom service of any legal process or notice issuing out of any court or of the corporation department may be made.

(4) The cash value of the assets of the corporation and the nature and character of such assets.

(5) The amount of indebtedness of the cor-



poration, and, if such indebtedness is secured, in what manner.

(6) A statement in detail of all bonds and mortgages issued by and outstanding against said corporation, showing when said bonds were issued, when the same become due, and the consideration received by the corporation for said bonds in property or money, and, if in property, the nature, situation, and cash value of such property; and in case of mortgages, a statement showing the date of such mortgages, the date of their maturity, the property covered thereby, and the cash value thereof.

(7) The amount of shares of stock or bonds owned or controlled by said corporation in any other corporation, and the proportion of the entire capital stock which such holding represents, both in the reporting corporation and the corporation whose shares it holds.

(8) The amount of assets and liabilities of any corporation in which such reporting corporation holds stock or bonds, giving the character of such assets and liabilities and of what such assets and liabilities consist.

(9) The number of shares of the capital stock of the corporation which have been actually issued, and the amount and value of the consideration actually received into the treasury of the corporation for such shares; where the payment was made in money, then the amount in money per

share; where such payment was made in property, a description of such property as to location, character, and the cash value thereof.

(10) That it is not a party to any contract or agreement for the purpose of, or which operates as, a restraint of trade or commerce, or which results in giving to either corporation a monopoly of trade in any article of common use or utility, or which results in any business or commercial advantage over other corporations or persons engaged in like trade, business, or commerce, by virtue of such agreement or contract. That it is not a party to any pooling plan, agreement, or contract with any other corporation for any purpose which, when carried into effect, would create a monopoly of the trade or business in which such corporation or corporations is engaged, or in any degree lessen or destroy competition between corporations or between corporations and natural persons engaged in business, trade, or commerce of a similar character.

(11) That no part of the capital stock of the corporation is owned, controlled, or voted by any other corporation, or by the officers of any other corporation.

(12) That the corporation does not and has not received any rebate, deduction, discrimination, drawback, preference, or advantage in rates of transportation or anything incident to such transportation from any common carrier—railroad,

pipe line, water carriers, or other transportation company—by which its products are or may be transported, which give to it any advantage or profit directly or indirectly as against any other person or corporation who ships or desires to ship products of a similar character over such transportation lines under like conditions; or if any such have been received or given, then such corporation shall state when, from whom, on what account, and in what manner it was received, making a detailed exposition of the entire transaction.

(13) If a corporation is a railroad or transportation company, or a common carrier of any kind, that during the past year it has not granted to any person or persons, corporation, or company, any special rates, discriminations, advantages, or preferences whatsoever; neither has it received any such.

(14) The salaries of all officers of the corporation and whether or not any officer shares in the profits of the corporation, other than as stockholder, or receives perquisites of any kind.

If at any time a corporation, organized under the Federal government, shall fail to file its annual report as herein provided, or shall fail to give the information required, its officers should jointly and severally be personally liable to the United States in the sum of one thousand dollars per day for every day it transacts business; and if any such

report shall contain a false statement in any material particular, the officers making such false statement should be deemed guilty of perjury and punished as provided in Section 5392 of the Revised Statutes of the United States. And whoever should knowingly prepare or cause to be prepared an answer that is false as aforesaid, should be deemed guilty of subornation of perjury and be punished as provided in said Section 5392.

The object of compelling the making and filing of this annual report is to put on record under oath two of the officers of the corporation in order that the corporation department may have an additional hold on the responsible heads of the corporation for violation of law. The annual examination hereinafter provided will enable the department to verify the correctness of the report and thus insure the truthfulness of the statements contained therein.

ANNUAL EXAMINATION.—The Commissioner or head of this Bureau, through his staff of examiners, should examine annually into the affairs of all corporations chartered by his department, inspecting their books, agreements, receipts, expenditures, vouchers, records of meetings of directors and of stockholders, and report the condition of their affairs as of the first of January of each year. Power should be given to compel the attendance of witnesses to be examined under oath, to



call experts to testify as to values, and to require the production of all books, papers, contracts, agreements, and documents relating to any subject under investigation, no matter in whose possession or in what part of the United States or of its dependencies such documents may be. The claim that any such testimony or evidence, documentary or otherwise, may tend to criminate the person giving such evidence or testimony, or subject him to a penalty or forfeiture, should be met by a provision that no person should be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing, concerning which he may testify or produce evidence. But no person so testifying should be exempt from prosecution and punishment for perjury committed in so testifying. And if it should be found that a corporation is overcapitalized, or is violating any anti-trust or other law, the Commissioner of the corporation bureau, after giving to the corporation sixty days' written notice to comply with the laws, and the corporation having failed to rectify the wrong committed, should place the evidence in the hands of the Attorney-General, who should immediately commence an action to annul its charter.

The Commissioner should also have the power to compel corporations to furnish, from time to time, such statements in regard to the conduct

of the corporate business, the change of stock interests, the financial condition of the company, and such other data as may, in his judgment, be deemed necessary to a complete understanding of the business and the condition of the corporation.

A detailed report of the examination of the property, business, profits, and losses of every corporation chartered by this Bureau should be made each year and kept on file in the office of the Commissioner. A summary statement of the corporate assets and liabilities, the amount of stock issued and the amount paid thereon, in cash and otherwise, the actual amount of surplus, and the nature and mode in which it is used and invested, should be published in a government paper, designated for that purpose, and in one newspaper published in the county where the principal place of business of such corporation is located. The publication of such facts would in no wise injure the corporation, while the publication of a detailed report might paralyze or destroy the business done by corporations.

It is well known that a corporation, just as a partnership or an individual in business, in some years makes money, in some loses money, and in others comes out even; but in the average comes out ahead.

If the creditors found at the end of a year that a corporation had lost money, how long would it be before the credit of that corporation would be

lost; how long before the banks would refuse to renew or to discount its paper; how long before the creditors would place their claims in judgment and force the corporation into a receivership or into bankruptcy?

Great care should be taken to protect amply the rights of privacy, while at the same time care should be exercised to protect the public by giving out such facts as they, as creditors, stockholders, and prospective investors, are entitled to know.

Mr. Justice Brown in the so-called "Paper-Trust" case said:

"The corporation is a creature of the State. It is presumed to be incorporated for the benefit of the public. It receives certain special privileges and franchises and holds them subject to the laws of the State and the limitations of its charter. Its rights to act as a corporation are only preserved to it so long as it obeys the laws of its creation. There is a reserved right in the legislature to investigate its conduct and find out whether it has exceeded its powers. It would be a strange anomaly to hold that a State, having chartered a corporation to make use of certain franchises, could not, in the exercise of its sovereignty, inquire how those franchises had been employed and whether they had been abused, and demand the production of the corporate books and papers for that purpose."

The first concern of the government which grants charters of incorporation ought to be to

see that its corporate offspring are doing a legitimate business and are not violating any of the laws. Its second concern ought to be the giving to the public of all such information as should affect the reasonable judgment of a man in determining whether he should or should not invest in a particular enterprise.

These obligations on the part of the government are universally recognized, but the means to be employed to effect these ends are still a matter of keen discussion.

Experience has abundantly proved that it is not practicable to allow corporations to issue their own reports without the existence of a board of inspection to verify the truth of the statements contained therein. Such a plan of reporting, without such inspection and verification, has been tried by the various States, and the result has been that the reports, if not so meagre as to be of no practical value, are of so complex a nature that the majority of persons are incapable of understanding or properly appreciating them.

As a matter of fact, a government board of examiners is absolutely indispensable for the realization of compulsory publicity. With such a board, the affairs of each corporation would become known, and the purchaser of bonds and of stocks could rely upon the corporation bureau to see that corporations were not overcapitalized, and that they were doing business honestly and



fairly and within the provisions of law. In this way the corporation, the purchaser of corporate bonds and of stocks, and the general public would be protected.

If the so-called "tobacco," "leather," "whiskey," "ice," "sugar," and "shipbuilding" trusts had been subjected to the ordeal of a thorough investigation by expert accountants and their true financial condition laid before the public, a large number of serious losses would have been prevented from falling upon innocent and worthy people. The fact that industrials as well as railroad and transportation companies are possessed of double attributes, of public and private nature combined, opens the way to abuse of official power. The favored few in the inner confidence of the managers have advantages in the general market to which they are not justly entitled.

The investigation of the refunding committee of the Pacific railroads at Washington brought out the evidence from one of the principal witnesses that the books connected with the construction of the roads had been burned or destroyed as useless trash, although they contained the record of transactions involving hundreds of millions of dollars, a record which became absolutely necessary to a fair settlement between the government and its debtors. There was put in evidence the fact that a certain party in interest had testified before another committee that he was present

when \$54,000,000 of profits were divided equally among four partners—himself and three others. None of the books of record containing this valuable information escaped the flames.

The investigation of various railroad corporations has shown that some of the managements have peculiar methods, if not delinquencies, in bookkeeping, from which investigation it is evident that if such corporations had received rigid examination and the guilty parties had been held responsible for their acts, many of the great railway corporations would not have been wrecked during the panic of 1893-95.

Such annual inspection by a government board of examiners would prevent a repetition of these evils and would insure the correctness of published reports and prospectuses, and would prove a check on the discriminations which have built up or destroyed so many corporations.

"Under the present industrial conditions," said former Corporation Commissioner, Mr. Garfield, "secrecy and dishonesty in promotion, overcapitalization, unfair and predatory competition, secrecy of corporate administration, and misleading or dishonest financial statements are generally recognized as the principal evils."<sup>1</sup>

If the corporate managers knew that the government might bring to light all their acts by

<sup>1</sup> Report of Bureau of Corporations, Dec., 1904.

an annual inspection, these evils would in a large measure disappear.

This idea of governmental inspection has aroused a storm of protest from corporate managers, who insist that to place strong men in a position where they may be watched by government officers will not only humiliate them, but will limit their freedom of corporate action which is the secret of their power, and will destroy initiative and daring and will reduce all corporate management to the routine level of the conduct of savings-banks. These managers seem to forget that they are but the agents and trustees of the stockholders of the corporation, and that while occupying such positions, they have no right to take risks that are great or engage in undertakings which they know will, if discovered, bring governmental condemnation.

Inspection will not discourage personal initiative when directed in legitimate channels; but it will lessen individual initiative when involving grave risks to the stockholders' money.

Mr. Edward M. Shepard, in an address before the New Hampshire State Bar Association in 1906, made this statement, the truth of which is unquestionable:

“Those who are competent to manage these great functions of modern industry need not call secrecy to aid them in their competition with the incompetent.

There are exceptions to this rule, but they are few. The competent man need not fear—the true interests of civilization require—truth and the greatest possible publicity in every business, and especially in every business conducted under franchises given by public authority."

The government which gives to a group of citizens a charter of incorporation, a special privilege, an advantage they did not possess as individuals, has the right to know that the privilege is not being used unfairly or illegally. If a corporation is legally organized and is conducting a legitimate business, no injury will be done it by inspection.

PROPERTY TAXED LOCALLY.—The real and tangible personal property owned by corporations chartered by this Bureau should be locally assessed and taxed in the civic divisions of the States in which the property is located, the same as the real and personal property owned by individuals. No higher or different rate of taxation and no other or different method of assessment should be applied to such corporations than is applied to corporations organized under the State law or to individual citizens.

The reason for such local taxation is twofold: First, the local authorities have a better knowledge of the value of property and better facilities for obtaining this knowledge, and would, therefore, make fewer mistakes, than a board of examiners



appointed from Washington and not residents of the locality where such property is located. Second, the cities and counties of the States depend largely for their support upon the taxes levied upon the property of corporations located within their jurisdiction, and to withdraw this revenue would cause confusion and would increase the burdens of the local taxpayers.

**TAX ON PROFITS.**—A progressive graded tax should be levied on the actual net profits of corporations chartered by this department above eight per cent. Such tax might be graded as follows:

1-10 of the	1st per cent.	above 8 per cent.
1- 9 of the	2d per cent.	above 8 per cent.
1- 8 of the	3d per cent.	above 8 per cent.
1- 7 of the	4th per cent.	above 8 per cent.
1- 6 of the	5th per cent.	above 8 per cent.
1- 5 of the	6th per cent.	above 8 per cent.
1- 4 of the	7th per cent.	above 8 per cent.
1- 3 of the	8th per cent.	above 8 per cent.
1- 2 of the	9th per cent.	above 8 per cent.
6-10 of the	10th per cent.	above 8 per cent.
7-10 of the	11th per cent.	above 8 per cent.
8-10 of the	12th per cent.	above 8 per cent.
9-10 of each	per cent. of profits above 20 per cent.	

Each corporation is rated according to the profits made. A corporate charter is valued solely by the prosperity of the corporation. A tax upon the net profits would be governed by actual results and be equal in its effect upon

different corporations, and be just in its general operation.

"The value of the franchise from the economic point of view," declares Professor E. R. A. Seligman, "consists in the earning capacity of the corporation. That is the real basis of all taxation and can best be gauged by the amount of business done.

"This is the most logical form of corporate taxation. The tax is not, like the gross earnings tax, unequal in its operation. It holds out no inducement, like the general property tax, to check improvements. It is just; it is simple; it is perfectly proportional to productive capacity. In short, it satisfies the requirements of a scientific system."<sup>1</sup>

Whether or not a corporation had a special privilege, in the nature of a monopoly given by the patent laws, by the tariff, by a special franchise, or by the control of the markets, would make no difference in the laying of the tax. If a corporation possessed any of these privileges, it would be obliged to pay for each in proportion to its value, as evidenced by its earning power.

A corporation should be permitted to earn a reasonable profit on its assets. If this permission were taken away, all incentive to carry on business would be killed, the affairs of corporations would be wound up, and the people would face general disaster, the like of which the world has never known. That the percentage

<sup>1</sup> *Essays in Taxation*, pp. 192, 198, 199.

of profits allowed untaxed should be liberal, in view of the risk taken by the investor, no one would question. While four per cent. may be the average value of capital, it is suggested that there should be an allowance untaxed of eight per cent. of actual net profits on the fair market value of the tangible assets of the corporation, as this percentage would be large enough to stimulate business and not so large as to work injustice between corporations chartered by this Bureau and corporations chartered by the various States.

It is reasonable to assume that corporations will make all the profits they dare; and if there is placed a progressive graded tax upon their profits, their incentive to overcharge and increase their profits beyond a fair amount will be taken away; and their time, thought, and energy will be bestowed in bettering the quality of their products, in extending their markets, and in holding their place in the business world. Franchises, special privileges, and tariff protection will not produce the valuable monopolies they are creating to-day, for upon the adoption of this plan of taxation the monopolies will not be allowed to yield the large profits that are now enjoyed. If a corporation has to pay as a tax 9-10 of each per cent. of profits above 20 per cent., it will not risk the losing of its trade for the sake of making so small a percentage of profit, and the people will get the benefit of a cheaper price and a better article.

Such a result might be reasonably expected if such taxes were applied to the profits of the Standard Oil Company. This company paid dividends in fourteen years, ending with 1895, amounting to \$512,940,084, although the entire property, by the company's own valuation, was worth only \$69,020,798 at the beginning of that period. And since 1895, the annual dividend has ranged from 33 to 48 per cent., besides the accumulation of a very large surplus.

The testimony taken in the suit of the United States against the Standard Oil Company in New York City on September 18, 1907, brought to light the fact that the Standard Oil Company of Indiana paid in dividends the sum of \$10,516,082 on a capitalization of \$1,000,000, or a little more than 1000%. If this plan of taxation had been in force in the State of Indiana in 1906, this company would have been obliged to pay as a tax the sum of \$9,208,401.75; which would have left for dividends the sum of \$1,240,609.20, or a little over 124%. This computation is based of course on the assumption that the actual value of the tangible assets of this company was in 1906 only \$1,000,000.

This tax, when assessed against a corporation, should be a first lien upon all the property and estate of the corporation. And if such tax should not be paid within thirty days after the same becomes due, the corporation should be re-



strained on the suit of the United States, brought by the Attorney-General, from engaging in interstate commerce until such tax should be paid.

VALUATION OF ASSETS.—In determining the actual net profits earned by a corporation, the board of examiners should annually ascertain the fair market value of the tangible assets of the corporation, not taking into consideration the franchises, the capital stock, or its bonds.

This value may be obtained by an examination of the officers of the corporation, by inspection of its books, and by expert testimony. The Board should deduct from the total earnings of the corporation the necessary and reasonable expenses of its management, including the actual amounts spent in renewing the plant, the cost of materials purchased and used, and, in order to avoid double taxation, the taxes paid on its property to all States, counties, and municipalities. Having obtained these amounts, the board should, by ordinary business methods, figure the percentage of profits earned in relation to its corporate assets.

ACTIONS.—Corporations chartered by this department should have the right to sue and to be sued in the Federal and in the State courts.

By such a provision, centralization in the Federal judiciary will be avoided and the overcrowding of the Federal courts to the injury of litigants will be prevented.

DEPARTMENTAL EXPENSES.—The cost of run-

ning the corporation bureau should be met in two ways:

(a) By the incorporation tax.

(b) By charging the various corporations examined an amount sufficient to pay the salaries and the expenses of the corporate examiners. The amount charged would only be about fifteen dollars a day for the time spent by each examiner in investigating the affairs of a corporation.

If the bureau were conducted on economical lines, a surplus ought to be obtained from the organization tax to go into the general fund; while the amount collected as a tax on profits could be used to reduce the general expenses of the government.

## IV

### FEASIBILITY OF PLAN

WOULD THE ADOPTION OF THE FOREGOING PLAN TO TAX THE PROFITS OF CORPORATIONS ENGAGED IN INTERSTATE AND FOREIGN COMMERCE STOP INDUSTRIAL AND COMMERCIAL PROGRESS? WOULD THIS TAX DETER MEN FROM IMPROVING THEIR METHODS, FROM INVENTING NEW LABOR-SAVING MACHINERY, AND FROM EMPLOYING THE MOST EXPERIENCED AND SKILLFUL MEN?

FROM published statistics, it is safe to say that about seventy-five per cent. of the large corporations—industrial and railroad,—whose stocks are listed on the Exchanges, would, under the foregoing plan, be untaxed; and out of the remaining twenty-five per cent., about one half of them would be taxed but little, so it is impossible to conceive how this plan of taxation would vitally change conditions. This computation is based, however, on the present rate of earnings on the total capitalization of the corporations, and not on the actual assets of the corporations.

If the corporations which would suffer most by this plan of taxation were to lag behind in the adoption of new machinery and new methods, how long would it take the awaiting capital to start competing industries? Natural business laws and economic conditions would take care of new inventions and new systems of carrying on business, and would assuredly reward the pioneers of progress.

Such a tax would not be a tax on individual thrift, energy, or enterprise, but would be a tax upon the earnings of invested capital, over and above a fair return on the investment; and in view of the exemption of stockholders from personal liability, and of the privilege of acting in a corporate capacity, such tax, levied proportionately, ought not to be considered an unjust burden.

David Ames Wells has wisely said: "Commencing with first principles, the general taxation of incomes is theoretically one of the most equitable, productive, and least exceptionable forms of taxation."<sup>1</sup>

Mr. Richard T. Ely says in regard to the justice and feasibility of an income tax:

"It is universally, or almost universally, admitted that no tax is so just, provided it can be assessed fairly and collected without difficulty. More nearly than any other tax does it answer the requirements of that canon of taxation which prescribes equality of

<sup>1</sup> *Theory and Practice of Taxation*, p. 514.



sacrifice. Furthermore, it is of moment that the income tax, unlike license charges, does not make it more difficult for a poor man to begin business or to continue business. Its social effects, on the contrary, are beneficial, because it places a heavy load only on strong shoulders. Even for men of large means engaged in business it is a tax to be strongly recommended, for such men will in some years make little or nothing, or even lose money. Now, our property tax is merciless; it exacts as much in a year when a business man is struggling to keep his head above water as in a year of rare prosperity; whereas the income tax exacts much only when much can be given without financial embarrassment. . . . It is the fairest tax ever devised; it places a heavy burden when and where there is strength to bear it, and lightens the load in case of temporary or permanent weakness. . . . An income tax spares the business man in season of distress and helps him to weather the storm but asks a return for the consideration shown in days of increasing prosperity.”<sup>1</sup>

Such tax being levied on all corporations alike, no handicap would be placed on any corporation, but “would leave these enterprises respectively upon the small relative planes of competitive efficiency as before the levying of such taxes.”<sup>2</sup>

WOULD SUCH TAXATION STIFLE COMPETITION?

Competition insures a constant reaching out for

<sup>1</sup> *Taxation in American States and Cities*, p. 288.

<sup>2</sup> Roswell C. McCrea “A Suggestion on the Taxation of Corporations,” vol. 19, *Quarterly Journal of Economics*, p. 493.

economies of production, for new devices for saving waste, and for lessening the expense of transportation of the crude and the finished product. Taxation of profits would prevent a monopoly from paying large dividends. The desire to obtain a monopoly, therefore, would be somewhat lessened. Whatever prevents a monopoly or lessens the desire to obtain a monopoly, necessarily opens the way to competitors and brings competition into existence. One of the objects of the foregoing plan is to keep competition alive by taking away the main advantage to be gained by owning a monopoly.

WOULD THE ADOPTION OF THIS PLAN DESTROY CORPORATE LIFE, AND WOULD THE BUSINESS OF INTERSTATE COMMERCE BE CARRIED ON BY PARTNERSHIPS AND PERSONS ACTING IN THEIR INDIVIDUAL CAPACITY?

The fundamental object of the foregoing plan is to welcome centralization; to permit factories and other industries to grow large and to combine and to consolidate, and to allow the free development of all honestly transacted commerce. Its aim is to put a stop to the abuse of power and the use of corporate life to injure society.

Great enterprises would be promoted under its protection, without the evils of over-capitalization and over-speculation, and the comprehensive publicity without the disclosure of proper trade

secrets would make stability and strength the main features of corporate enterprises.

Excessive capitalization is of no value to the corporation itself. Over-capitalization has been the main source of weakness of the large combinations. Capitalization based on actual assets has been the plan adopted by small business corporations and has been the plan proved by experience to be the only sane, common-sense business plan. Over-capitalization is adopted solely for speculative purposes and not for business reasons, and, therefore, for the sake of the commercial and the industrial life of our land such practice should be prohibited.

To regulate is to foster and not to annihilate.

WOULD NOT THE ADOPTION OF THIS PLAN DESTROY  
THE PRACTICE OF "GAMBLING" IN INDUSTRIALS,  
WHICH IS SO PREVALENT TO-DAY?

To a large extent, it would. The element of uncertainty arising from lack of exact knowledge as to the organization, the value of assets, the amount of liabilities, and the peculiarities of the management of corporations, which furnish the basis for speculation, would in a great measure be eliminated. The power of the managers of corporations to use the machinery of the business entrusted to their care so as to raise or lower the market price of the corporate securities to their individual enrichment, whether at the

expense of the stockholders of the corporation or of the innocent public, would be so curbed as to prevent them from doing harm. The buying and selling of stocks on margins by the people at large in the hope that the market price will change, a hope which is often founded on rumor, a toss of a coin or a dream—the only sources of information (?) obtainable to-day—would be greatly lessened, while the buying of bonds and stocks for investment would largely increase. Bonds and stocks, when their actual value and their real dividend-paying ability are known, would become a favorite form of investment to the small as well as to the large investor, for a market price would, to a certain extent, be fixed which the buying public could safely depend upon.

American investors are daily growing more suspicious of industrial stocks. They are expressing a desire to know what they are buying; and stocks of corporations whose managers work in the dark, and publish no reports showing whether or not such corporations are honestly conducted, are beginning to be neglected. Only those stocks of corporations which publish full and clear reports, and which appear to be honestly managed, are finding favor with investors.

WOULD THE TAX ON NET PROFITS FALL ON THE  
CONSUMER?

Such tax would not lead to an increase of



prices, with a view of imposing its burden upon the consumer, because the motive therefor would be removed by the progressive feature of the tax, since the greater the amount of the net profits, the greater would be the tax. Therefore, the burden of such a tax would not fall on the consumer. The holders of the stocks and bonds would be the only ones affected by this taxing feature.

WHAT EFFECT WOULD THE ADOPTION OF THIS PLAN  
HAVE ON THE SO-CALLED "HOLDING CORPORATIONS"?

A fundamental principle of corporation law is that the corporation should be governed by its directors. The present practice of corporate control by a few men is to organize a "holding corporation" in one State and manufacturing and business corporations in other States, the majority of their stock being owned by the "holding company" whose directors conduct the affairs of all these branch or subsidiary corporations, which have "dummy" directors to fill the various offices. The effect of this system often involves a restraint of interstate trade which cannot be reached by the present laws.

Another effect of this system is the evading of corporate taxation. Both of these evil conditions would be eradicated by the adoption of the foregoing plan of a national incorporation law.

WOULD NOT THIS PLAN OF TAXATION BE DEFEATED  
BY THE DIRECTORS OF CORPORATIONS PAYING  
TO THEMSELVES SALARIES SO LARGE AS TO KEEP  
THE PROFITS EARNED BELOW SIX PER CENT?

In the case of small corporations whose stocks are not listed on the exchanges, it undoubtedly would. But it is not the small business corporation that needs special attention and drastic supervision and control. It is the large corporations which own or control monopolies, and which have been favored by special laws or conditions and whose stocks are offered to the public as investments, that sorely need regulation. And as these large corporations owe their existence to the money of the people which is invested in their bonds and stocks, their corporate managers would not dare to jeopardize their positions by paying exorbitant salaries to themselves, while to sell bonds and stocks profits must be made and dividends declared and these facts would adequately control their actions.

"The danger is not very great," says Professor Seligman in discussing this question. "We hear of no complaints on this score in the American commonwealths where the net-receipts tax prevails; and in Europe, where this method of taxation is well-nigh universal, the objection has never been raised. It may thus be pronounced of little importance."<sup>1</sup>

<sup>1</sup> E. R. A. Seligman, *Essays in Taxation*, p. 199.

HOW WOULD THE ADOPTION OF THIS PLAN OF TAXATION EFFECT THE QUESTION OF EQUALITY IN TAXATION?

The report of the Wisconsin State Tax Commission for 1903 contains these sentences:

“The unmistakable importance of corporate taxation at this time renders the adoption of a rational, harmonious, and efficient system a prime necessity. The wealth of the country in personalty consists largely in investments in corporate securities, stocks and bonds in railroad and other corporations, which are not and cannot be reached for taxation to the holders by the severest and most inquisitorial laws. The taxation of corporations as legal entities is the only recourse. . . .

The highest authorities on economic and public finance are of the opinion that the problem of just taxation in this country is very largely the problem of corporate taxation.”

In the case of *Monroe County Savings Bank v. Rochester*, the Court of Appeals of the State of New York declared:

“All franchises are not of equal value. One corporation may enjoy a monopoly, and another be subject to competition with rivals, thus being less valuable. In some instances, the value of the franchise would depend upon the nature of the business authorized, and the extent to which permission was given to multiply capital for its prosecution. Under such

circumstances, it would be expected that the Legislature would prescribe some equitable test or rule of valuation, which should guide or control the estimate of the assessors, in fixing the amount of the tax. It can hardly be denied that a fair measure of the value of the franchises of corporations would be the profits resulting from their use; and in adopting such a rule of estimate, no one could justly complain of its being unequal in its effect upon different corporations, or unjust in its general operation. . . . If there are no surplus earnings, then there can be no tax; if there are such earnings, then it is reasonable to say that the privilege which produced them is valuable, and may justly be regarded as property subject to the taxing power. <sup>1</sup>

Justice Samuel F. Miller holds that a tax is uniform within the meaning of the constitutional requirement if it is made to bear the same percentage over all the United States; that is, it must be uniform as regards any particular articles in all places, but that different articles may be subjected to different rates, provided they are uniform between different places and different States; as it obviously "could not have been the intent of the framers of the Constitution that the government in raising its revenues should not be allowed to discriminate in respect to articles which it desired to tax." <sup>2</sup>

<sup>1</sup> 37 *New York Reports*, p. 367.

<sup>2</sup> *Lectures on the Constitution of the United States*, pp. 240, 241.



"Equality of taxation, as a maxim of politics, means equality of sacrifice," said John Stuart Mill. "It means the apportioning the contribution of each person towards the expenses of the government so that he shall feel neither more nor less inconvenience from his share of the payment than every other person experiences from his."

Professor Nicholson adds: "It is admitted that this standard cannot be completely realized; but it is thought to furnish a proper foundation for remission in some cases and for proportional increase of taxation in others."

Therefore, the validity of the laying of the tax on net profits of all corporations chartered by Federal law, and doing an interstate and foreign business, could not be questioned. Such a tax would be proportional, certain, regular; and, therefore, ought to command assent without argument.

DOES THIS PLAN OF TAXATION COME WITHIN THE FOUR CANONS LAID DOWN BY ADAM SMITH IN HIS "WEALTH OF NATIONS," WHICH ALL ECONOMIC STUDENTS HAVE ADOPTED AS OF UNQUESTIONED AUTHORITY?

These principles are as follows:

Canon 1. "The subjects of every state ought to contribute to the support of the government, as nearly as possible, in proportion to their respective abilities—that is, in proportion to the revenue which they

respectively enjoy under the protection of the State."

This plan recognizes the principle that the government should allow to all its citizens a fair and reasonable income from investments. It further requires that the government's children should pay for the privileges conferred and the protection afforded in the measure of their value. The value of such privilege and protection can be fairly ascertained only by the net profits made. True it is that such measure of value takes no account of the wisdom, skill, and business acumen of the officers of the corporation, but no more equitable yardstick than this one has yet been found. By a graded progressive tax on net profits, the corporation pays a tax according to its ability and the benefits it derives from the governmental privilege and the protection it enjoys.

Canon 2. "The tax which each individual is bound to pay ought to be certain and not arbitrary. The time of payment, the manner of payment, the quantity to be paid, ought all to be clear and plain to the contributor and to every other person. The certainty of what each individual ought to pay is, in taxation, of so great importance that a very considerable degree of inequality (I believe from the experience of all nations) is not near so great an evil as a very small degree of uncertainty."

This plan provides for a tax "certain and not arbitrary": "The time of payment," annually; "the manner of payment," clearly indicated; "the quantity to be paid," definite and certain according to table—which bring this plan directly within the requirements of this rule.

Canon 3. "Every tax ought to be levied at the time and in the manner in which it is most likely to be convenient for the contributor to pay it."

The fiscal year of practically all the corporations existing in the United States begins and ends in the month of January. The annual inventory of practically all American corporations is completed in January and it is during that month that the net profits of the year's business are ascertained and the dividends are declared. And it is in the month of January that, under the provisions of this plan, the tax is levied and the tax is required to be paid. No more convenient time, it is submitted, could be suggested for the ascertainment of the amount of the tax and for its payment.

Canon 4. "Every tax ought to be so contrived as both to take out and to keep out of the pockets of the people as little as possible over and above what it brings into the public treasury of the State."

The two objects sought to be obtained from this plan of taxation are: *First*, to allow to

investors a sufficiently large income, untaxed, from their investments to induce them to continue to invest in corporate enterprises. *Second*, to tax all profits above a reasonable return on investments so as to cause the corporate owners to prefer giving to the people a better class of goods to giving to the government large payments in taxes. In other words, this plan aims to compel corporate owners to give to the people more for their money, and by so doing make more secure the investments of Federal corporate stockholders.

Finally, may it not be asserted that this plan comes squarely within the canons laid down by Adam Smith?

WOULD NOT THE EFFECT OF THIS PLAN BE JUST AS FAR-REACHING AND JUST AS SATISFACTORY WITH THE TAXING ELEMENT LEFT OUT? WOULD NOT THE PUBLICITY OBTAINED BY THE FEDERAL INCORPORATION ACT, WITH AN ANNUAL INSPECTION AND THE PUBLICATION OF A SUMMARY STATEMENT, BE SUFFICIENT TO REACH THE EVILS OF EXTORTIONATE CHARGES AND EXORBITANT PROFITS?

The Commonwealth of Massachusetts has given an answer to these questions, in the reports of the Gas and Electric Light Commission. This Commission is empowered not only to inspect the books and examine into the affairs of gas



and electric light corporations doing business in the State, but also to control and regulate the prices to be charged for gas and light. The commissioners are men of ability and have had several years of experience in inspecting, regulating, and controlling these quasi-public corporations. Yet, despite their efforts, with almost unlimited power under their control, the result can hardly be called satisfactory.

The reports of this Commission may be summarized as follows:<sup>1</sup>

Year	Company	Number	Less than		Dividends		No.
			6%	6% to 10%	10% to 12%.		
1907	Gas	72	10	22	19	21	
1907	Electric						
	Light	57	8	19	5	25	
1906	Gas	72	12	20	15	25	
1906	Electric						
	Light	59	8	19	5	27	
1905	Gas	76	15	22	19	20	
1905	Electric						
	Light	59	6	24		29	
1904	Gas	75	14	27	13	21	
1904	Electric						
	Light	55	7	24	24	24	

Publicity obtained by inspection and the publication of all the business affairs of corporations is far from being a solution of this problem. Even when such inspection is coupled with the power to raise and reduce the prices to be charged to consumers, the result as evidenced by the

<sup>1</sup> Public Documents, No. 35, 1905, 1906, 1907, 1908.

foregoing table is not equal to what is desired, and plainly indicates that the system of inspection and regulation fails to remedy the evils complained of.

In so far as the law goes, it is entirely satisfactory, but it does not go far enough. Regulation by fixing prices will not be effectual; proper control and regulation by inspection alone will not be successful. Taxation of profits, coupled with inspection, is the only way by which prices can be controlled, monopolies curbed, and the public be protected.

. . . . .

The adoption of the foregoing plan would probably secure the following results:

(1) Protection to investors—by giving to them the facts upon which to base their judgment in purchasing bonds and stock;

(2) Protection to competitors—by keeping the operations of corporations within the provisions of law;

(3) Protection to consumers—by taking away the desire of corporate managers to obtain exorbitant prices;

(4) Protection to the public—by insuring sound business conditions.



## FREIGHT RATE PROBLEM





## FREIGHT RATE PROBLEM

THE years 1905 and 1906 witnessed the uprising of the American people in a united demand on the American Congress to enact a law empowering a governmental commission to prepare the schedule of rates which railroads and other common carriers should charge for the transportation of merchandise. The discussion of the question of giving to the Federal government additional control over carriers took the form of condemnation of rebates, drawbacks, and secret concessions; and the remedy proposed was the vesting of power in a Federal commission to equalize freight rates and to prevent extortionate charges. As a result of the popular demand, reinforced by the energetic insistence of President Roosevelt, the Congress, on June 29th, 1906, passed the law popularly known as the Railway Rate Bill, being an Act to amend the Act entitled "An Act to Regulate Commerce."

This Act was intended to extend the powers of the Interstate Commerce Commission over transportation companies, to strengthen the weaknesses of former acts which dealt with the subject of

freight rates, and to enable the Interstate Commerce Commission to enforce its decrees.

Express and sleeping car companies, and pipe lines, other than those transporting water and gas, were brought under the provisions of the laws affecting common carriers. "All switches, spurs, tracks, and terminal facilities of every kind used or necessary in the transportation of persons or property, . . . and also all freight depots, yards, and grounds used or necessary in the transportation or delivery of said property," were comprised under the term "railroad," while the term "transportation," which heretofore included "all instrumentalities of shipment or carriage," was enlarged so as to compass "cars and other vehicles . . . and facilities of shipment or carriage, irrespective of ownership or of any contract, express or implied, for the use thereof, and all services in connection with the receipt, delivery, elevation and transfer in transit, ventilation, refrigeration, or icing, storage, and hauling of property transported"; and it was made "the duty of every common carrier subject to the provisions of this Act to provide and furnish such transportation upon reasonable request therefor, and to establish through routes and just and reasonable rates applicable thereto."

This Act required that all published tariffs should state separately terminal charges and charges for services which the carrier was to

supply. The initial carrier was also required to file and keep posted the rates from points upon its line to points on the routes of other carriers when a through rate and a joint rate shall have been established. Carriers were further required to file with the Commission copies of all contracts, agreements or arrangements with other carriers in relation to interstate traffic.

The iniquitous so-called "after-dinner" and "midnight" rates, which the carriers could put into effect under the law which permitted rates to be advanced upon ten days' notice and reduced upon three days' notice, are now prevented by the provisions which require a thirty days' notice to the Commission and to the public before rates can be changed, except when the Commission, in the exercise of its discretion, shall permit rates to be changed upon less than the legal notice, when the necessities of commerce require prompt action to be taken.

An important feature is the power given the Commission to prescribe the manner in which railways shall make their reports, the books the carriers shall keep, and the system of recording accounts and other memoranda; and the Commission is given the right at any time to examine the books and records of the carrier.

The main feature of the Act is the provision that upon complaint being made the Commission, "after full hearing"—if "it shall be of the opinion



that any of the acts, or charges whatsoever, demanded, charged, or collected by any common carrier or carriers, subject to the provisions of this Act, for the transportation of persons or property, . . . or that any regulations or practices whatsoever of such carrier or carriers affecting such rates, are unjust or unreasonable, or unjustly discriminatory, or unduly preferential or prejudicial, or otherwise in violation of any of the provisions of this Act—to determine and prescribe what will be the just and reasonable rate or rates, charge or charges, to be thereafter observed in such case as the maximum to be charged; and what regulation or practice in respect to such transportation is just, fair, and reasonable to be thereafter followed; and to make an order that the carrier shall cease and desist from such violation, to the extent to which the Commission find the same to exist, and shall not thereafter publish, demand, or collect any rate or charge for such transportation in excess of the maximum rate or charge so prescribed, and shall conform to the regulation or practice so prescribed.”

The effect of this provision, however, is somewhat limited by the closing words of this section, that all orders of the Commission shall take effect “unless the same shall be . . . suspended or set aside by a court of competent jurisdiction.”

The remedial provisions of the law are one of its most vital and important features. Hereto-

fore, it was a grave question whether one carrier could complain of another carrier; but under this Act one carrier may file a complaint against another. Formerly, it became the duty of the Commission or any one interested, when the Commission's order had not been obeyed by the carrier within a reasonable time, to file a proceeding in a United States court to insure a compliance with the order. This procedure necessitated a finding by a court that the opinion of the Commission was just and equitable and that its order was legal. Now, the order having been made containing a date on which it must be obeyed, the intent of the Act is to make the order self-executing; failure to obey the order or requirement of the Commission subjects the defendant to a forfeiture of \$5000 per day, as well as court process at the instance of the Commission. In case the defendant shall feel aggrieved at the order of the Commission, it is given authority to file in a Circuit Court of the United States, a suit against the Commission to "enjoin, set aside, annul or suspend" the Commission's order.

This Act goes as far in establishing governmental control of rates through an appointive administrative and judicial body as the Constitution will permit. Whether or not the law is constitutional is a question which has been much debated by the foremost constitutional lawyers in the country, and the United States Supreme Court will un-

doubtedly be called upon to render its decision in this matter at an early day. Even in the event of the Act being held to be unconstitutional, a tremendous stride has been made in the education of the people in the matter of extending the powers of the Federal government over the agencies engaged in interstate trade, and the passage of this Act will prove a stepping-stone to more advanced and more correct legislation.

The cause of complaint on the part of the general public and the remedy adopted have but little in common. Railroad rebates are departures from fixed schedules of freight rates, and whether the rates be fixed by the railroads or by a governmental commission would in no wise affect the question of giving rebates or making secret concessions to favored shippers. A carrier could as easily favor one shipper at the expense of another when the schedule of carrying charges is made by a governmental commission as when published by the railroad itself. The bestowal of power upon the Interstate Commerce Commission to equalize the rates to be charged by American railways, while an important step in the direction of Federal control over interstate commerce, does not go far enough to reach the vital problem of eliminating the giving of rebates and the making of secret concessions to favored shippers. True, the Railway Rate Bill provides that the Interstate Commerce Commission may ex-



amine the books of carriers, and thereby it is expected that light will be thrown on the corporate acts of common carriers.

The non-enforcement of the various anti-trust and discriminatory laws has been due very largely to the fact that the government has been unable to obtain the evidence upon which the violators of the law could be convicted. The United States Attorney-General has been handicapped at every turn by his inability to examine the books of shippers in order to verify the statements in the books of carriers. Juggling of accounts is so easy to accomplish, by those who wish to hide their acts, that the examination of the books of carriers does not always disclose the violations of law that have been committed. Further, the practice among carriers of destroying their audit accounts every few months is a method of protection which almost defies detection.

The trial of the New York Central Railroad Company before the United States Circuit Court in 1906 brought to light the custom of this railroad of destroying its audit accounts every three months, so that its records would not prove embarrassing upon investigation.

Judge Holt in his decision in the action against the New York Central Railroad Company, said:

"This crime [giving and receiving rebates] in its nature is one usually done with secrecy, and proof of which it is very difficult to obtain. The Interstate



Commerce Act was passed in 1887, nearly twenty years ago. Ever since that time complaint of the granting of rebates by railroads has been common, urgent, and insistent, and, although the Congress has repeatedly passed legislation endeavoring to put a stop to this evil, the difficulty of obtaining proof upon which to bring prosecution in these cases is so great that this is the first case that has ever been brought in this court, and, as I am informed, this case and one recently brought in Philadelphia are the only cases that have ever been brought in the eastern part of this country. In fact, but few cases of this kind have ever been brought in this country, east or west."

Mr. James R. Garfield, former Commissioner of Corporations, in his annual report of December 1st, 1906, says:

"The work of the Bureau during the past years presents very strikingly the power of efficient publicity for the correction of corporate abuses wholly apart from the penal or remedial processes of the courts. No more convincing illustration of this power has been given than the experience of the Bureau in connection with the . . . system of railway discriminations in favor of the Standard Oil Company and the change of the system by its mere exposure. In most cases, as soon as the officers of railroads were aware that the agent of the Bureau had discovered a discrimination, the improper rate was cancelled or the discrimination removed. This action on the part of the railroad officers was all the more striking inasmuch as it could hardly have been taken with a view to escape from criminal liability, because that

criminal liability, if existing at all, had already been incurred and could not be mitigated or evaded by cancellation of the discriminatory rate or regulation; and further, the fact of that voluntary action was a convincing admission of the unfairness of the rate or regulation. In short, the experience of the Bureau indicates that enforced publicity of facts is a most efficient measure of putting an end to such discriminations."

Rebates and discriminations are the products of darkness. The secrecy which surrounds the actions of transportation and industrial corporate managers, through the lack of governmental supervision and control, has enabled such officials to override the law and, to a large extent, to act according to their wishes and desires.

Light—the white light of publicity—shining upon all corporate acts, is the crying necessity of the hour. Power to penetrate the corporate cloaks covering railroad and industrial corporations and into the books of carriers and shippers should be possessed by the Federal government.

The only adequate remedy is for the Federal government to have the power and authority to make unannounced, simultaneous examinations of the affairs of common carriers and of shipping corporations. This unheralded examination would undoubtedly bring to light all violations of the anti-trust and discriminatory laws.

Under the new Railway Rate law the powers

of the Interstate Commerce Commission have been enlarged so as to enable the government to examine the books and records of railroad companies. By means of this law much of the darkness surrounding the dealings of railroad companies with the large industrial corporations has been dispelled; but the books of railroad companies are so complicated, and the accounts so juggled, that the examinations made by the Commission accomplish but little more than to create in the minds of railroad managers a fear lest some discovery of wrong-doing should be made. This fear has induced the abandonment of many of those practices liable to be discovered from an examination of the railroad companies' books, but it has left untouched those secret, insidious methods by means of which the law is being evaded and the favored industrial corporations are reaping an unjust benefit. A long and important step has been taken to bring to light secret rebates, concessions, and discriminations, and but one additional step is necessary to be taken to banish forever those practices condemned by the American people.

With the exception of conferring this additional power on the government, the laws now on the statute books provide sufficient substantive law and adequate administration machinery to cover the main grounds of complaint against common carriers. No fuller or more complete prohibitive

statute for the suppression of rebates and secret discrimination could be enacted than those now in force; while the penalty provided by Sec. 5440 of the Revised Statutes, which has never been enforced to correct the evils in transportation problems, and which provides in brief that if two or more parties enter into a conspiracy to give and to receive rebates or to violate any law of the United States the parties are liable to a fine and imprisonment for not more than two years, is of sufficient severity to meet all requirements.

If the plan for Federal incorporation and Federal supervision of corporations engaged in interstate and foreign commerce outlined in the first part of this volume should be enacted, secret violations of anti-trust and discriminatory laws would be a thing of the past, while the fear of discovery would undoubtedly have the tendency to prevent violations thereof. If, however, this plan failed to furnish the relief contemplated, the changed conditions resulting therefrom would undoubtedly suggest remedies which could be enacted without causing the tremendous upheaval attendant on the passage of the Railway Rate Bill.





## GOVERNMENT OWNERSHIP



## I

### THE PROBLEM

THE recent exposure of the practice of corporations in obtaining from municipal councils and legislative assemblies valuable franchises by means of secret bribes, has aroused the American public to seriously consider the advisability of municipal and State ownership of such public utilities as surface, underground, and elevated railroads, telephone, telegraph, and lighting franchises, and the business of supplying communities with gas and water.

Not only do corporations obtain without pay franchises of the value of millions of dollars, but, not content with a fair return on the value of such franchises for which they paid nothing, the owners thereof have almost invariably over-capitalized the companies so as to necessitate the charging to the public of an excessive price for the use of such franchises.

The facts recently brought to light in regard to the over-capitalization of individual street railway companies have astounded the public. The



history of the consolidations and reorganizations by which the railway systems of most of our great cities have been welded together is filled with evidence of stock-watering.

In New York, Philadelphia, and Pittsburg the process of combination and reorganization has been repeated several times, with the result that the stocks and bonds have grown more inflated with each change. From the careful estimates made by competent engineers regarding the cost of construction of street railways, it is probably safe to say that the present electric surface railways in our large cities could be completely reproduced in their present style at a cost of not more than \$60,000 per mile of track, although the average capitalization of these railways is \$182,775 per mile, or three times their cost. This condition, to a very large extent, prevails in all corporations owning natural monopolies.

It has been suggested and much elaborate argument has been wasted in the vain effort to show that competition could be obtained in these monopolies under all conditions. But the fact remains that when an attempt has been made to put such argument into practice by the organization of rival corporations, the result has inevitably been that within a short period the rival companies entered into an agreement as to prices, or divided the field, or consolidated, and the dream

of getting lower prices through competition of part owners of a natural monopoly came to naught.

The West Shore Railroad, which was called into existence by the high dividends paid by the New York Central, found that, though parallel to the New York Central, its route was not equal to the one chosen by its predecessor, which had the first choice of position; and as its capital and equipment were less than those possessed by its rival, and as the Central immediately reduced charges to meet its cut rates, the West Shore soon became unable to bear its losses, and finally sold out to the Central at a low price.

The Nickel Plate road, paralleling the Lake Shore from Buffalo to Chicago, had a similar career and a like ending.

Cities may be named by the score that have witnessed the attempts at competition. In every one of these monopolistic industries, with the exception of the telephone service, not a single case can be mentioned that has been on trial for any length of time and has not ended with consolidation or division of territory or some agreement to put an end to competition. Though the public enjoys temporary low prices while the war of rates is being fought, the price after the consolidation is effected, if not raised above the old figures, is seldom made lower than the prices charged before the competition began.

Experience in the United States has proved that competition in natural monopolies for any considerable length of time is impossible of attainment. Because of this fact many thoughtful people have come to insist that the only solution of this problem is to be found in public ownership and operation of these monopolies.

The advocates of government ownership, in the cases where no power of revoking the franchise has been reserved, favor the government's buying the assets of the corporation owning these franchises, if the corporation will sell at a reasonable price; and if the corporation will not sell, for the government to build and construct a plant and enter into competition with the avowed object of "freezing out" its competitor.

The difficulty with the plan for purchasing the assets of the corporation owning a franchise would be to determine the value of the franchise. To purchase the franchise and plant on the valuation fixed according to its earning power would be too hazardous a speculation, as it would be impossible to ascertain if under the administration of public officials the business could be as economically managed as under the administration of well-paid expert business men; to purchase the franchise and plant on the basis of the amount it would cost to reproduce the plant, would be unfair and unjust, for the government, after allowing and encouraging the original grantees of the franchise to dispose

of it to innocent stockholders on a valuation based on its earning power, ought not to compel its return on a different valuation; to do so would deter business men from investing their money in any enterprise of a public or quasi-public nature, by the fear that, as soon as their capital was earning a fair rate of interest, not only their dividends, but their capital itself, or a part thereof, might be taken from them.

Not only would prospective investors be deterred by this fear, but they would hesitate about investing in these securities because of the crippling policy so often pursued by municipalities in their attempts to purchase private enterprises, a policy effectively illustrated by Mr. Dixon in an address before the Society of Arts:

“There are certain industries which involve an amount of interference with public rights. These, it is suggested, cannot be properly kept under control, and therefore the only alternative to disorder is to have them municipally administered. The truth is that the authorities are so infected with the idea of acquiring them that they do not honestly try to regulate them. Their policy produces a reactive tendency in the same direction on the part of the companies. A gas company or a tramway company sees expropriation looming through the fog of local controversy. Its conductors do not see why the authorities should choose their own time for the



purchase, and, therefore, they themselves aggravate the situation in order to hasten the decision of the authority to buy out the company at the precise moment when it will suit them—in view of the depreciated state of its undertaking and of the capital difficulties ahead—to part with the concern. If the policy of acquisition were definitely abandoned, the authorities would be able to enforce a much more effective system of control.”

Then, again, there is the danger to the municipality arising out of the discussion of the terms of sale, as illustrated in the case of the borough of Marylebone in London, when a few years ago it attempted to purchase the electric supply of this borough from the Metropolitan Electric Supply Co., a private company. The company offered to sell for \$4,500,000, which sum the municipality refused to pay, but sent the matter to arbitration, spent about \$300,000 in law costs, and was finally called upon to pay over \$6,000,000 to the company. Thus, at the very beginning of the enterprise, the ratepayers were saddled with an absolutely unnecessary charge of \$1,500,000, on every cent of which interest and sinking fund charges have to be paid.

The main objection to the municipality or State owning and operating these franchises is to be found in the fact that only in exceptional localities in the United States and under exceptional conditions have public officials been able to operate a

franchise as successfully and as economically as has been done by private corporations.

"Those who are engaged in commerce and manufactures," says Lord Avebury, who speaks with much authority, "know very well that the difference between profit and loss depends on close attention to details, on the careful selection of the staff, on the devotion of labor, thought, and time to the business. It is impossible to suppose that governments or municipalities can give the same amount of attention as those whose income and prosperity, and the welfare of those near and dear to them, depend upon the success of their exertions. It is evident that in work done by the government or by local authorities there is not the same stimulus to exertion and economy, so that one of two things will almost inevitably happen—either there will be a loss, or the service will not be so good."<sup>1</sup>

The history of the Northern tramway lines before they passed into the control of the London City Council illustrates the unprofitableness of municipal ownership:

"The Council now [1906] owns ninety-nine miles of tramways, namely: fifty-one miles on the Surrey side of the river—the Southern lines; and forty-eight miles on the Middlesex side—the Northern lines, the latter, up to April of 1906, worked by the Metropolitan Tramway Company on a lease from the Council now

<sup>1</sup> *On Municipal and National Trading*, p. 56.

extinguished. From 1894 up to March 31, 1906, the profits realized from both systems which were applied to the relief of taxation—the Southern, be it remembered, operated by the Council, and the Northern leased to and operated by a company—have amounted to \$1,467,960. This is the record for the twelve years in which the Council has been interested in tramways. The total earnings of the Southern and Northern systems in this period totalled \$1,634,905, of which \$1,571,685, or 96 per cent., was earned by private enterprise. Since 1900 the Council has earned from the Southern system, which it operates itself, a sum of \$119,545, while from the Northern system, operated by a company, the taxpayers receive no less than \$957,975. It is apparent, therefore, that had the County Council leased the Southern system also to a company, instead of working it themselves, London taxpayers would have gained something like \$840,000. Even the small profit the Council has obtained from the Southern lines has only been possible by setting aside a wholly inadequate sum for depreciation—only 1.1 per cent. on the capital. The Council's own expert has admitted that if two cents per car mile for renewal, which had been allowed in previous years, had still been maintained, there would have been a loss of \$20,000 instead of a profit of that figure for 1905-6." <sup>1</sup>

The British *Municipal Year Book* for 1906 gives the following results of the year's (1904-5) working of a number of municipal undertakings:

<sup>1</sup> *Dangers of Municipal Ownership*, by R. P. Porter, pp. 219-220.

"Of 378 water-works, 252 showed no profits.

"Of 177 gas-works, 40 showed no profit, and 48 of those which did were not applied in the relief of taxation, so that the taxpayers of 88 towns out of 177 obtained no benefit from municipal gas.

"Of fifty-eight street railway systems, thirteen showed no profit, and thirty-five of those which did were not applied in relief of taxation, so that the taxpayers of forty-eight towns out of fifty-eight obtained no benefit from municipal street-railways.

"Of 189 electricity-works, sixty-four showed no profit, and ninety-two of those which did were not applied in relief of taxation, so that the taxpayers of 156 towns out of 189 obtained no benefit through municipal electricity supply.

"A proper allowance for depreciation would wipe out these small profits [says Mr. Robert P. Porter]. In almost every case where a profit is shown from electricity-works, it is arrived at only by ignoring or inadequately recognizing depreciation and other items, which are juggled with in order that, by hook or by crook, a surplus can be squeezed out of the elastic figures."<sup>1</sup>

"When the telegraphs were taken over from the Companies by the government of Great Britain in 1870, the profit in that year on company working was \$1,692,500. The following years show what has happened since (all the years are not given, but those omitted tell the same story)<sup>2</sup>:

<sup>1</sup> *Dangers of Municipal Ownership*, p. 234.

<sup>2</sup> *Dangers of Municipal Ownership*, by R. P. Porter, p. 303.



"ANNUAL DEFICITS ON STATE OPERATION OF THE BRITISH  
TELEGRAPH SYSTEM:

	<i>Deficit</i>	<i>Percentage of expenditures to gross receipts</i>
1883-4	\$ 98,485	101.10 %
1884-5	181,850	102.03 %
1885-6	225,685	102.52 %
1886-7	627,185	107.70 %
1900-01	1,688,205	109.76 %
1901-02	3,259,405	118.26 %
1902-03	3,008,555	116.16 %
1903-04	4,788,915	125.64 %
1904-05	5,955,630	125 % "

According to the *Statesman's Year Book* in Switzerland for 1906 the deficit in 1904 in government-operated telegraphs and telephones amounted to \$136,633.

The unfortunate fact must not be overlooked that public ownership has a great foe to face in the spoils system. While a rational civil service would undoubtedly overcome to some extent this great evil, it is reasonable to assume that corruption will be sufficiently rampant to do away with the profits of the undertaking. Until American city and State governments are purged of dishonest officials, it is unsafe to place in their hands the additional opportunity for stealing which would arise under municipal and State ownership of natural monopolies.

The present-day government officials are in many instances so ignorant or so corrupt that

they have granted franchises for practically no consideration and have failed in almost every point to protect the interests of the public. They have neglected to enforce such requirements as the franchises did contain in the interests of the people and have perverted such powers as the franchises did grant and made them the means of levying blackmail upon the corporations. With such conditions existing, could the public expect anything better if these city officials were given the power to operate these franchises? That the city governments are too corrupt and inefficient to carry on business on purely business lines is plainly evident to all observers.

For many years the city of Philadelphia owned and operated its gas-works, with the result of high prices, poor service, and the gradual development of a political ring which robbed the city and practically dominated its politics. This condition grew so intolerable ten years ago that public-spirited citizens organized a committee known as the Committee of One Hundred, which dared the power of the gas ring, exposed its shameful record, and compelled the city to lease the works to the United Gas Improvement Company. Professor Boyce says that this ring controlled no less than 20,000 votes, using them most effectively to prolong its corrupt rule. The result of the lease to the United Gas Improvement Company has been to improve the service, lower the price, and give

to the city a yearly revenue of \$650,000, as against an average yearly deficit under the city management of \$239,000.

The experience of Boston a few years ago further illustrates the difficulty of municipal ownership under our present system of municipal government. Under Mayor Quincy, a number of new municipal bureaus or departments were created, through which the city undertook to do its own printing, electrical construction, carpentering, repairing, and furnishing of its own ice. Under the succeeding administration of Mayor Hart it was found that they were an unwarranted drain on the public treasury and they were closed up as fast as possible. According to Mr. Hayes Robbins it was found "that the electrical equipment of a ferry-boat, which under private contract would have cost only \$6800, cost \$10,200. Electrical work in the city building for hospital nurses cost \$4754; by private contract it would have been \$1528. Work on a city armory, which normally would have cost \$2600, absorbed \$6700 of the city's funds. Ice for public drinking-fountains, which private companies were furnishing at \$2 and \$3 per ton, was costing the city \$6."<sup>1</sup>

These bureaus were in the hands of political appointees who were, as a rule, individually incompetent and who were giving to the city as little service as was possible. The civil-service regula-

<sup>1</sup> *Am. Journal of Sociology*, p. 805.



tions furnished but little protection to the public, for as rapidly as the rules were extended to cover the different classes of employees, the "city fathers" would create new positions or give to the old positions new names for which no civil-service examinations existed.

The efficiency of civil service to select men best fitted for industrial work has been seriously questioned by all who have studied the results obtained in the fields calling for the highest standard of industrial efficiency. The conditions of success in different fields in different places, according to the situation, character of the market, previous traditions of the business, etc., vary so greatly that what might be regarded as essential business principles in one situation, and made the basis of a general competitive examination, might be entirely inadequate to select the right men in another situation. And it might be questioned whether some of the most successful managers of modern industries could themselves pass an examination such as might be considered proper by the examining board.

Mr. C. M. Keyes, formerly railroad editor of *The Wall Street Journal*, has stated that the net result of Missouri's experiment in State ownership of railroads is "a loss of nearly \$25,000,000," while as to the Pennsylvania experiment Mr. Keyes says:

"After more than twenty years of hard experience,



Pennsylvania grimly pocketed its loss of over \$20,000,-000, and turned its back forever upon the gospel of State ownership of railroads." <sup>1</sup>

Mr. William Bender Wilson, historian of the Pennsylvania Railroad, in speaking of the political conditions which arose under the experiment of Pennsylvania in owning and operating railroads, said:

"The individual transporter who did not dance when the politician in charge of traffic piped was placed at a great disadvantage. His cars were not moved until after his competitor, who was a partisan, reached market; classifications were interpreted against him, and his cars were condemned by inspectors; every effort was made to compel his adherence, failing in which he was run out of business or badly crippled.

"The free-pass system originated on the State works, and grew out of the assumption by public officials that they had a right to pass over the public highways, in going to and from the capital, free of tolls. County officials soon claimed that they were entitled to the same immunity in going to and from their respective county towns, and political hangers-on . . . enrolled themselves under the banner of free transportation.

"It became a potent factor in corruption, and reached such an extent that transporters who would

<sup>1</sup> "State Ownership of Railroads," *World's Work*, Dec., 1906, p. 8337.

do certain political work at an election would have their tolls rebated to an extent that nearly always reached a refund of the entire amount paid. The State debt grew and grew, until bankruptcy stared the people in the face.”<sup>1</sup>

Hon. George A. Loud, in speaking before the United States House of Representatives in December, 1906, said in regard to the government navy-yard, which is controlled by the most conservative men in public life, men who are without the pale of the stress and struggle of the political arena:

“I have found, in my study of this administration, a concrete example of what it means to manufacture material in the government navy-yards as compared with what it would cost to buy the same material of equal quality upon the open market.

“I take, first, the subject of anchors manufactured during last year, and I find the output was 605,483 pounds, costing \$81,564.12, or 13½ cents a pound. The cost of anchors of private make, according to a statement of Admiral Manney, is 5½ cents for anchors under 1000 pounds, and 6 to 8½ cents for anchors over 1000 pounds. I have further information on this subject from the Department of Commerce and Labor, Lighthouse Establishment, who paid for forged fluke anchors 5¾ to 6 cents per pound; also that forged stockless anchors cost 6 cents a pound. The Newport News Shipbuilding Company, in a letter of March 9, state:

<sup>1</sup> “State Ownership of Railroads,” *World's Work*, Dec., 1906, p. 8337.

“‘With regard to anchors, I beg to say that, while the price varies with market conditions, from 7 to 7½ cents per pound would be a fair average to figure for anchors.’

“‘From a letter of the Treasury Department Revenue Cutter Service, dated March 15, I am advised that they have paid from 4¾ to 6½ cents per pound for forged anchors.

“‘I find that one of the largest ship-building companies in the United States, who lately constructed ships for the Lighthouse Service, furnished forged anchors weighing 11,925 pounds, costing \$4.98 per hundred pounds, or practically 5 cents per pound, while the cost of anchors made by the Navy Department, shown by report of Bureau of Equipment, is 13½ cents per pound.

“‘I find that Admiral Manney gives the cost of an 8000-pound anchor of the factory at Boston at \$17.65 a hundred; one of 14,500 pounds at \$15.39 per hundred, which makes the relative cost in these instances 5 cents furnished the government lighthouse boats as against 16 cents for the government navy manufacture. As forged anchors have become nearly obsolete, because of steel stockless anchors being used instead, I have not very much data on the subject of forged anchors. The cost of steel anchors is shown to be about 4 cents a pound.

“‘Half-inch chain cable, 2628 pounds, cost \$632.78, showing a cost per pound of 24 cents; five-eighths-inch cable, 2887 pounds, costing \$793.01; showing a cost per pound of 27½ cents, the highest market quotation of these sizes running from the common chain, \$3.60 per hundred, to the highest grade, \$8.40 per 100



pounds, for half-inch chain; and in this connection I will say that the purchasing department of the Isthmian Canal, on April 28, purchased three-eighths-inch straight short-link iron chain at \$3.94 per hundred pounds, delivered on the dock at Colon. The whole amount involved in the business of making these one-half- and five-eighths-inch chains is so small it is of little importance; nevertheless it shows the expense of government manufacture to be abnormally large; that is, the cost at the government factory being three times the market price of private-made chain of the very highest quality. I will add to the above information that the market price quoted for the best special hand-made dredge chain is \$8.40 per 100 pounds for half-inch and \$7.40 for five-eighths-inch. . . .

"What I have brought this together for is the concrete example of what it means to manufacture goods in government institutions. I have taken this, which is, perhaps, a small item, but it appealed to me as something I knew something about. I know something about cordage; I know something about chains, as I have used them all my life in my business, and I know that I can buy in the open market the chain and the anchor and material of that kind and equal quality at one half of what they cost in government manufacture."

The important question for each citizen to consider in his study of municipal ownership is whether his municipality may succeed in the management of a given industry by procuring



agents who will manage the industry with economy, efficiency and fidelity. The answer may be found in the examination of the way in which the various departments of the municipality have been and are conducted, and the qualification of the officials to manage an enterprise the success of which largely depends on executive ability, commercial judgment, and technical skill.

The continual shifting of political parties and of the men in influence in the same party has prevented the development in our cities of a corps of municipal employees who can feel confident that faithful work will bring permanence of tenure, and that greater ability will insure more rapid advancement. The weakening effect of short terms and insecure tenure of office is evident in all ranks of the service, from the heads of departments to the day laborers.

The security of the office-holder's position depends rather upon his loyalty and services to the political party than to the city's interest. His political activity therefore becomes more important in his eyes than his official duties, and this attitude inevitably tends to a disposition to shirk his responsibilities.

Since municipal offices and the patronage connected therewith constitute the chief legitimate reward for political service, first-class competent men are not only barred, but, as a rule, they will not seek for public service, as better oppor-

tunities are obtainable in the field of private enterprises.

The evil influence of corporations in politics will not be eliminated by public ownership. Politics are not removed by placing the management of enterprises in the hands of politicians.

President Hadley has well said:

“While there is a fundamental reform in the code of political ethics which the community imposes upon its members, public trusts will be no more adequately controlled than private ones. Nay, they are likely to be even less adequately controlled, because a public official, holding his powers as a tool of a ring, and acknowledging no allegiance to standards higher than those which have made his organization successful, is as a rule more firmly intrenched in authority than the representative of any private corporation, however extensive and powerful. Until such a change is made the social ideal of reforming abuse of private trust by the substitution of public trust will be but a substitution of one set of masters for another.”

Mr. James Dalrymple, Glasgow's managing expert of tramways, who was brought to the United States in 1905 by the mayor of Chicago and the Municipal League of New York, “as the high apostle of municipal-run street railways,” to investigate conditions in Chicago and New York, said on his arrival:

“I see no reason why Chicago, or any other city

in this country, should not be able to own its street railways, and to run them with as much success as we have reached at Glasgow. I admit that the proposition at Chicago is a much larger one than the one we had to tackle, but at the bottom it is the same. The people of Glasgow would not go back to the old days of private ownership for anything in the world. I am not saying that a company would not do as well by the public. I know, in fact, that it could, but it would be doing so with a somewhat different end in view. For a company has always the shareholders to consider. And I have to admit that you will find people in Glasgow to-day—quite influential people too—who say that the street car service is not profitable.”

After a careful investigation of the conditions existing in American cities, Mr. Dalrymple declared on his departure:

“To put street railroads, gas-works, telephone companies, etc., under municipal ownership would be to create a political machine in every large city that would be simply impregnable. These political machines are already strong enough with their control of policemen, firemen, and other office-holders. If in addition to this they could control the thousands of men employed in the great public-utility corporations, the political machines would have a power that could not be overthrown. I came to this country a believer in public ownership. What I have seen here—and I have studied the situation carefully makes me realize that private ownership under

proper conditions is far better for the citizens of American cities."

To what end does this municipalization of industries tend? Glasgow furnishes a partial answer. There

"a citizen may live in a municipal house. He may walk along the municipal street, or ride on the municipal tram-car, and watch the municipal dust-cart collecting the refuse which is to be used to fertilize the municipal farm. Then he may turn into the municipal market, buy a steak from an animal killed in the municipal slaughter-house, and cook it by the municipal gas on the municipal gas-stove. For his recreation he can choose amongst municipal libraries, municipal art galleries, and municipal music in the municipal parks. Should he fall ill, he can ring up his doctor through the municipal telephone, or he may be taken to the municipal hospital on the municipal ambulance by a municipal policeman. Should he be so unfortunate as to get on fire, he will be put out by a municipal fireman, using municipal water; after which he will, perhaps, forego the enjoyment of a municipal bath, though he may find it necessary to get a new suit in the municipal old-clothes market."<sup>1</sup>

The London *Times*, in reviewing the tendencies of municipal ownership in that city, declares:

<sup>1</sup> R. E. C. Long, *Fortnightly Review*, January, 1903.



"In every municipality there will be a large body of voters and ratepayers whose interest it will be to encourage and promote expenditure; who will be certain to unite, and will be able, when united, to carry their points. When once a municipality has set up an establishment for carrying on any industry it will be no use trying to undo the mistake, if such it prove to be. Municipal hands cannot be turned adrift. Employment must be found for them at the expense of the ratepayers, and in due course they will agitate for pensions, and, in the end, get them. It will go ill at the next election with any one who suggested that they be discharged because they are useless, or that expenses should be cut down."<sup>1</sup>

"There is much to be said in favor of the system of private ownership," declares Mr. James Edward Le Rossingol. "It is supported by priority of existence and by the conservative instincts of mankind. It is also justified in view of the acquisitive instincts of human beings. Man is naturally acquisitive. If you give him a chance he will work, and work hard, to acquire the greatest possible amount of property with the least possible expenditure of effort. This economy of effort and relative magnitude of result is peculiar to individual enterprise carried on for the sake of private gain. Public officials exhibit a highly developed economy of effort without a corresponding magnitude of result, because they lack the stimulus of the hope of private gain. Therefore, a private owner, and to a less degree a private company, will practice economy wherever possible. It will

<sup>1</sup> *Dangers of Municipal Ownership*, by R. P. Porter, p. 112.

build its plant at the lowest cost. It will never pay excessive salaries. It will dismiss inefficient servants without fear or favor. It will have thorough system in its management. It will let its contracts on the most favorable terms. It will introduce improved machinery and methods wherever they are likely to secure a saving of any kind. It will, in short, display enterprise and diligence and good management and thereby the total wealth of the community will be increased, without loss or damage to anybody.”<sup>1</sup>

“The undertaking by municipalities of commercial undertakings is undesirable mainly on five grounds,” says Lord Avebury, in summing up his conclusions on a most exhaustive study of this problem:

“Firstly, the legitimate functions and duties of our municipalities are already enough, if not indeed more than enough, to tax all their energies and fill up all their time.

“Secondly, it has involved, and will involve, an immense increase in municipal debt.

“Thirdly, it will involve municipalities in labor disputes.

“Fourthly, as there will not be the same stimulus to economy and attention, there will be a great probability, not to say certainty, that one of two things will happen: either there will be a loss, or the service will cost more. The working classes will, of course, be the greatest sufferers.

“Fifthly, it is a serious check to progress and discovery.”<sup>2</sup>

<sup>1</sup> *Monopolies, Past and Present*, pp. 131-132.

<sup>2</sup> *On Municipal and National Trading*, p. 6.

Cannot the corporations owning and operating these natural monopolies be so controlled by law as to prevent the over-capitalization of the corporations, the issuing of fraudulent and misleading reports as to the business done and profits earned, and cannot the corporations be made to pay a fair and reasonable price for the ownership and the use of franchises? Will not the evils sought to be remedied by the advocates of government ownership be cured and the dangers attendant on the change from private to public ownership be eliminated by the adoption of the following plan of governmental regulation, supervision, and control of corporations owning and operating natural monopolies?

## II

### THE SOLUTION

STATE CORPORATION DEPARTMENT.—There should be established, under the State government, a corporation department with sole power to incorporate associations to engage in elevated and surface railroad, canal, river, steamboat, ferry, express, navigation, pipe line, transfer, baggage, express, telegraph, telephone, palace and sleeping car business, for supplying gas, water, electric or steam heating, lighting, or power, and all kinds of transportation, and to grant licenses to foreign corporations, joint-stock companies, or associations wishing to carry on any of the foregoing lines of business within the State.

This department should have absolute charge and complete control of its natural corporate children and over all the operations of its adopted children within its jurisdiction. All corporations organized and existing under the laws of the State should be made subject to the control of the corporation department and be amenable to all the provisions applying to corporations chartered by it, in the same respect as if the corporations had



in the first instance been chartered by it. And all corporations, joint-stock companies, and associations which hereafter may be chartered or organized should be prohibited from engaging in any of the foregoing lines of business within the State until chartered or licensed by this department.

The superintendent or head of this department should be appointed by the Governor, to hold office during the term for which the Governor was elected, thereby placing the responsibility of this office on the governor, who holds his position by the suffrage of the people.

**TAX ON CHARTERS.**—Every corporation incorporated by this department should pay an organization tax of one tenth of one per cent. upon the amount of capital stock authorized, and a like tax upon any subsequent issue.

Every foreign corporation, joint-stock company or association licensed by this department should pay for such license a fee of one tenth of one per cent., to be computed upon the basis of the capital stock employed by it within the State during the first year of carrying on its business in the State.

**PROPERTY TAX.**—The real and personal property owned by corporations should be locally assessed and taxed in the civic divisions in which the property is located, the same as the real and personal property owned by individuals, for the

reasons set forth in regard to local taxation of property in the plan for Federal incorporation.

DUTIES AND POWERS OF SUPERINTENDENT:—The superintendent or head of the Corporation Department, through his staff of examiners, annually and at such other times as in his judgment may seem proper, should examine into the affairs of all corporations chartered by or subject to the control of his department, in the same manner as has been proposed for the commissioner of corporations to examine into the affairs of corporations chartered by the United States.

All foreign corporations doing business within the State should be annually examined by the superintendent of this department, to ascertain the amount of capital employed within the State and as to whether or not the corporation is obeying the laws.

The superintendent should also have the power to compel corporations chartered or licensed by him to furnish, from time to time, such statements in regard to the conduct of the corporate business, the change of stock interests, the financial condition of the company, and such other data as may, in his judgment, be necessary to a complete understanding of the business and the condition of the corporation.

A detailed report of the examination of the property, business, profits, and losses of every domestic corporation should be made each year

and kept on file in the office of the superintendent. A summary statement of the corporate assets and liabilities, the amount of stock issued and the amount paid thereof, in cash and otherwise, the actual amount of surplus, and the nature and mode in which it is used and invested, should be published in a State paper and in one newspaper published in the county where the principal place of business of such corporation is located.

**GRADUATED PROFIT TAX.**—For the privilege of exercising its corporate franchises and carrying on its business in such corporate or organized capacity, every corporation organized under or subject to the control of this department should pay annually the following progressive graded tax on the actual net profits earned, based on the actual tangible assets of the corporation:

1-10 of the	1st per cent.	above 6 per cent.
1-9 of the	2d per cent.	above 6 per cent.
1-8 of the	3d per cent.	above 6 per cent.
1-7 of the	4th per cent.	above 6 per cent.
1-6 of the	5th per cent.	above 6 per cent.
1-5 of the	6th per cent.	above 6 per cent.
1-4 of the	7th per cent.	above 6 per cent.
1-3 of the	8th per cent.	above 6 per cent.
1-2 of the	9th per cent.	above 6 per cent.
6-10 of the	10th per cent.	above 6 per cent.
7-10 of the	11th per cent.	above 6 per cent.
8-10 of the	12th per cent.	above 6 per cent.
9-10 of each	per cent. of profits	above 18 per cent.

Each foreign corporation licensed by this department should pay for the privilege of exercising



its corporate franchises, and carrying on its corporate business in the State, a tax of  $\frac{1}{2}$  of 1 per cent. annually upon the fair market value of its actual tangible assets employed within the State.

Great care should be taken to so equalize the tax upon domestic and foreign corporations that the investor will not find it more profitable to incorporate in a foreign jurisdiction than in the State in which the corporate business is expected to be conducted.

TEN-YEAR AVERAGING.—Every ten years the Board of Examiners should ascertain the fixed average of profits earned by each domestic corporation for that period. If the average of net profits does not exceed 6 per cent. per annum, the State should refund to the corporation the moneys received during such period as a tax on its profits above 6 per cent., or so much thereof as to make the average of profits earned untaxed equal to 6 per cent., thus allowing to every domestic corporation untaxed an average of 6 per cent. profit on its tangible assets during the period of its existence.

By the adoption of this plan all corporations owning natural monopolies would be compelled to be organized on a fair and just basis and to conduct their affairs on upright, honest business principles; further, the corporate stockholders would be compelled to pay a reasonable price for



all franchises owned by them. The allowance untaxed of 6 per cent. of actual net profits on the fair market value of the tangible assets of the corporation would be sufficiently large to stimulate business, while the progressive graded tax on profits above 6 per cent. would be a reasonable charge for the ownership and use of the franchise.

The State of Massachusetts in 1897 enacted a statute applying to the Boston Elevated Company. This statute, drawn in the form of a contract, provides that for a term of twenty-five years no additional taxes shall be laid upon the railway, but that as a compensation for the privileges granted, and for the use and occupation of the streets, the company shall pay a tax of  $\frac{7}{8}$  of 1 per cent. on its gross income, provided the dividend on its shares does not exceed six per cent., but that if the dividend should exceed six per cent. then there shall be an additional amount paid in taxes upon the excess above six per cent. This statute has never been considered unjust to the railway company, nor has the amount of the tax been deemed excessive.

Would it not be advisable to adopt a plan along the lines of the one herein set forth before running the risk attendant on municipal and State governments entering on a speculative investment by purchasing and operating these natural monopolies? If, after a fair trial, this plan can be shown

to be ineffective, then, but not until then, would it be wise to take the momentous and dangerous step of having the government buy, own, and operate natural monopolies.



## LABOR PROBLEM





# I

## THE PROBLEM

THE American "labor problem" is quite as vital a problem as the American "trust problem." Its claim on the attention and the deepest thought of all right-minded people is becoming more pressing with the continued growth and development of our country.

As a result of present-day economic conditions, the industrial world is divided into two opposing camps. Their banners are waving in every breeze and the press reports their daily movements.

On the one hand, American capitalists are uniting, factories are being combined, and the consolidation of forces is the steady, growing movement among the employer class. Corporations with millions of capital are of weekly origin. There are in active existence in the United States 850 industrial combinations having a total capitalization of \$15,000,000,000, besides thousands of corporations which practically include all business of profit. These giant corporations dominate and control the markets of the country. Their organization is soulless, while greed is the prime factor

in their management. Their officers are men placed in power to produce results. How, is too often unquestioned. As a result of this condition, the officers and managers, as a rule, will go to any length to hold their positions and to obtain an increase in their salaries. If the price of the finished product can be raised without losing the market, this course will be adopted; if the wages of labor can be forced down, that will be done. "Do everything to increase the dividends," is the order given by the stockholders. On October 30, 1903, "The Citizens Industrial Association of America" was organized. This is an association of manufacturers organized to oppose what they claim are the exactions of the labor unions. This association asserts that it has a membership of three thousand manufacturers, each contributing fifty dollars a year toward creating a fund to be used in industrial battles.

Since 1900, the progress of the movement for the organization of employers of labor into strong associations, having for their primary purpose the treating with, or resistance to, the claims of labor unions, has been so rapid that almost every important feature of trade-union organization finds its counterpart in employers' associations.

On the other hand, labor unions are being organized, federations of unions are being formed, and the laborer's dream of the working men of America being united in one confederate body is rap-

idly becoming a fact. A federation that can stop for five months the mining of anthracite coal is a power greater than the founders of the American Commonwealth could picture. In one federation there are more than twenty thousand unions, and these unions cover every trade. It is estimated that the unions in the United States have in the neighborhood of 4,000,000 members. Not only are trade-unions strong in numbers, but their financial strength is large. On January 1, 1903, the United Mine Workers had in the treasury \$1,027,120.29. Its members gave to the relief of the anthracite coal strikers, in 1902, \$258,343.94, and they raised by assessments \$1,967,026.34, making a total of \$2,225,370.28 raised with reference to the anthracite coal strike by the United Mine Workers of this country.

The aim of working men in uniting is to obtain shorter hours of labor, better conditions under which to work, and an increase in their wages. Their leaders are retained in office only so long as they pluck the golden fruit from the tree of capital. "Get more for us in shortness of hours and increase of wage" are the daily commands of the working men to their leaders.

That employers have a right to unite their capital and to consolidate their efforts in the form of corporations, the courts have repeatedly held. That the employees should have the right to unite



for the protection of their interests, no one can seriously question.

The trade union is as inevitable a product of modern economic life as the corporation. The one is an association of labor, the other an association of capital; both are attempts to attain individual prosperity through concerted efforts.

The rule laid down by Judge McPherson of the United States Circuit Court in the case of the Union Pacific Railway Company *vs.* Ruef is one now recognized by the courts throughout the country:

“The defendants have the right to combine and work together in whatsoever way they believe will increase their earnings, shorten their hours, lessen their labor, or better their condition. . . . All such is part of their liberty. The American people, generally, agree in endorsing the right of working men to combine.”<sup>1</sup>

As there are corporations of national scope, it is necessary that there should be labor unions of national scope; and as there are combinations of capitalists who have the power by a simple notice to reduce the wages of all workers in a single industry, the wage-earners of the country should have the right to combine to offset the power of the capitalists.

The labor union has done more for the uplifting of the working man than has any other force or

<sup>1</sup> 120 *Fed. Rep.*, p. 102 (1903).

condition. It has abolished the sweat-shop, prevented the employment of young children, humanely regulated the work of women, bettered the material condition of the men workers, shortened their hours of labor, and largely increased their earnings. It has taught the working man to subordinate his own wishes to the will of the majority; it has infused the spirit of brotherhood by compelling him to associate on equal terms with his fellow-craftsmen of all nations, languages and religions, and it has educated the immigrant in the principles of American democratic government, and, in a large measure, has prepared him for worthy citizenship. No other force tends more strongly to secure the needed amalgamation of these diverse nationalities and to inspire the newly arrived foreigner with common American ideals than unionism—a fact demonstrated in the Pennsylvania coal strike and the garment-makers' strike in New York city in 1904.

A trade-union is organized primarily for purposes of industrial conflict. It is well defined by Nicholas Paine Gilman as “a continuous association, made up of working people only, who belong to a particular trade or industry, and formed for the purpose of bringing the pressure of an organization to bear in their interests upon their employer or employers.”<sup>1</sup>

The constant striving on the part of employers

<sup>1</sup> *Methods of Industrial Peace*, p. 16.

to keep down wages and the never-ceasing efforts by the labor unions to raise wages, together with the general feeling of antagonism that exists between these two classes, naturally cause friction and frequent misunderstandings, which often culminate in a serious breach, ending in a strike or a lockout.

Evidence of this strained condition may be found wherever the relation of employer and employee exists. The United States Department of Labor gives the following statistics of labor disturbances in this country for the twenty years ending December 1, 1900:

22,793 strikes, with a wage loss of \$257,863,478; a loss through assistance rendered by labor organizations of \$16,174,793; and a loss to employers of \$122,731,121. The lockouts during the same period numbered 1005, with a wage loss to employees of \$48,819,745; a loss through assistance rendered by labor organizations of \$3,451,461; and a loss to employers of \$19,927,983. Thus, the total loss to employees from strikes and lockouts was \$306,683,223; to employers, \$142,659,104; making the grand total of loss to both parties of \$449,342,327.

During this period, according to Dr. Carroll D. Wright, former United States Commissioner of Labor,

"the number of establishments involved in these strikes . . . was 117,509. . . . There were 6,105,694

employees thrown out of employment. In addition to these strikes there occurred . . . lockouts involving nearly 10,000 establishments and throwing out of employment over 1,000,000 people. . . . The average duration of all the strikes was nearly twenty-four days, and of the lockouts over ninety-seven days."

From 1900 to 1906, the Department of Labor furnishes the following statistics of strikes and lockouts: <sup>1</sup>

Year.	Strikes.	Strikers.		Employees thrown out of work.	
		Number.	Average per strike.	Number.	Average per strike.
1900	1,779	399,656	225	505,066	284
1901	2,924	396,280	136	543,386	186
1902	3,162	553,143	175	659,792	209
1903	3,494	531,682	152	656,055	188
1904	2,307	375,754	163	517,211	224
1905	2,077	176,337	85	221,686	107
Year.	Lockouts.	Employees locked out.		Employees thrown out of work.	
		Number.	Average per Lockout.	Number.	Average per Lockout.
1900	60	46,562	776	62,653	1,044
1901	88	16,257	185	20,457	232
1902	78	30,304	389	31,715	407
1903	154	112,332	729	131,779	856
1904	112	44,908	401	56,604	505
1905	109	68,474	628	80,748	741

The Report to the President by the Anthracite Coal Strike Commission of the losses suffered by reason of the Pennsylvania anthracite coal strike, which lasted from May 12 to October 23, 1902,

<sup>1</sup> 21st Annual Report of Comr. of Labor, 1906, pp. 15, 20.



and in which about 147,000 mine workers abandoned their employment and remained idle until the strike was declared off, stated as follows:

“ It is impossible to state with accuracy the losses occasioned by the strike, but fair estimates may be given. The total shipments of anthracite coal in 1902, according to a statement of Mr. Wm. W. Ruley, chief of the Bureau of Anthracite Coal Statistics, were 31,200,890 long tons. As compared with 1901, when the shipments amounted to 53,568,601 long tons, this indicates a decrease of 22,367,711 long tons, or over 40 per cent. If the same decrease is assumed for the coal mined for local trade and consumption, the total decrease in production in 1902 amounted to 24,604,482 long tons, which at the price received in 1901 meant a decrease in the receipts of the coal-mining companies, for their product at the mines, of \$46,100,000. Assuming the average wage-cost to be about \$1.25 per ton on marketable coal, and allowing for wages paid to engineers, pumpmen, and others who remained at work during the strike, the mine employees lost in wages a total of about \$25,000,000.

“ It may be mentioned that, according to reports made at the recent convention of mine workers in Indianapolis, there were expended about \$1,800,000 in relief funds.

“ Assuming that 60 per cent. of the total shipments represents the size above pea coal, the decrease in the shipments of these larger sizes in 1902, as compared with 1901, was 13,420,627 long tons. With an average price at New York Harbor of \$4.09 per ton, and with 35 per cent. of the receipts charged to transporta-

tion expenses, the decrease in freights paid to the railroad companies on these larger sizes, if it had all been sent to New York Harbor, would have been about \$19,000,000; and assuming the freight rate of \$1.00 per ton on the smaller sizes, the total decrease in freight receipts of the transportation companies would have been about \$28,000,000."

One of the results of the Colorado miners' strike in 1903-1904 was the ordering out of the militia of the State to assist in preserving law and order in localities where labor disturbances existed, at a total expense to the State of \$776,464.

Mr. Slason Thompson has compiled the following statistics based on published accounts. "Experienced and trustworthy newspaper men," says Mr. Thompson, "were employed in sixteen widely separated news centres of the country to examine the files of the leading newspapers of their respective sections. When they returned 'several' wounded or arrested, it had been entered for only two; and when the reports read 'many' their entry had been made three."

KILLED, INJURED, AND ARRESTED IN STRIKES IN THE  
UNITED STATES BETWEEN JANUARY 1, 1902,  
AND JUNE 30, 1904.

State.	Killed.	Injured.	Arrested.
California.....	6	34	31
Colorado.....	42	112	1345
Connecticut.....	4	45	65
Idaho.....	—	12	—
Illinois.....	35	477	1353
Indiana.....	—	14	39
Carried forward.....	87	694	2833

State.	Killed.	Injured.	Arrested.
Brought forward.....	87	694	2833
Iowa.....	3	5	22
Kentucky.....	3	—	5
Louisiana.....	1	38	79
Maryland.....	—	9	10
Massachusetts.....	—	3	19
Michigan.....	3	4	7
Minnesota.....	—	9	1
Mississippi.....	—	—	1
Missouri.....	8	40	69
Nebraska.....	2	5	9
Nevada.....	3	4	1
New Jersey.....	3	76	125
New York.....	4	123	1,000
Ohio.....	3	20	23
Oregon.....	—	4	18
Pennsylvania.....	35	486	678
Tennessee.....	4	7	88
Texas.....	1	15	62
Utah.....	—	41	223
Virginia.....	1	24	25
Washington.....	—	6	11
West Virginia.....	13	19	192
Wisconsin.....	1	1	10
Arizona.....	5	18	12
	<hr/> 180	<hr/> 1,651	<hr/> 5,533

From the reports in the Chicago newspapers Mr. Thompson has gathered the following statistics:

KILLED, INJURED, AND ARRESTED IN STRIKES IN THE  
UNITED STATES DURING THREE MONTHS, JULY 1  
TO SEPTEMBER 30, 1904.

	Killed.	Injured.	Arrested.
Non-union men.....	9	260	41
Union strikers.....	5	22	540
Officers.....	4	33	—
Total.....	<hr/> 18	<hr/> 315	<hr/> 581

Making a total for the two years and nine months of:

	Killed.	Injured.	Arrested.
Non-union Men.....	125	1,626	415
Union strikers.....	56	173	5,699
Officers.....	17	167	—
	<hr/>	<hr/>	<hr/>
Total.....	198	1,966	6,114

From May 1 to November 3, 1902, in Pennsylvania alone, according to Mr. Thompson, there were:

Thirty occupied dwellings dynamited.

Forty trains obstructed or wrecked.

Four dams and bridges dynamited.

Scores of houses burned, stoned, shot into, or otherwise attacked.

Unnumbered riots and assaults with clubs, stones, and other weapons.

Cattle poisoned, doctors forbidden to attend the sick, ministers boycotted for ministering to the dying.

In reference to the Chicago stock-yard strike in the fall of 1904, which was proclaimed a "peaceable strike," involving 26,000 workers, Mr. Thompson says:

"There have been five deaths, 213 serious assaults, innumerable riots and arrests, and untold suffering and misery due to this one strike alone." <sup>1</sup>

To-day, no signs of a decrease in the number of strikes and lockouts are discernible. On the contrary, every indication points to a constant in-

<sup>1</sup> "Violence in Labor Conflicts," *Outlook*, Nov., 1904.



crease in their number and the extent of their influence, due, very largely, to the lining up of the forces of capital in the form of giant corporations and of the unions in federations.

But the financial loss to working men is the least of the losses suffered by them. A strike or a lockout often fomented fierce passions which lead to the commission of crimes and the destruction of property. During the enforced idleness, the working man's mind, while brooding over his situation, becomes clouded with discontent, giving him a distorted view of life, and often making him a follower of vagaries inconsistent with American democratic institutions.

The present labor conditions in the United States have brought into existence labor leaders of the type of the late Sam Parks. Through the influence of this man, the building operations in New York city during the season of 1903 were practically suspended. The losses incident thereto have been estimated to be not less than \$60,000,000.

The action of the Brooklyn Shipbuilding Company has strikingly shown the effects of the present method of settling disputes between capital and labor. The New York *Sun*, in commenting on this case, said:

“The labor agitators have achieved one of the most complete victories in the history of trade-unionism. Two years ago (1901) 2200 men were carried on the

company's payrolls, to whom \$1,196,000 was paid in wages every year. They have taught the company who is boss. No one is on the payroll now, and the works are closed. It is a great victory. 'The goose that laid the golden egg is killed.' "

In many cases, men quit work ostensibly for the reason that they consider their wages insufficient, or their hours of labor too long, when in reality it is because their leader or walking delegate has not received the sum of money he demanded as the price for the men remaining at work. The men remain idle until the employer weakens and the bribe is paid, when the men return to work. The members of the average union seldom question the pretext given by their leader upon which they have been ordered to stop working. When the unfortunate employer tells the men that the true object of the ordering of the strike was to blackmail him, they will not believe this statement, as in most cases their faith in their walking delegate is unshakable.

The power for inflicting evil with which nearly every labor leader is clothed may be exercised in many ways. An employer, desiring to injure a rival employer, or to take away from him an advantage which he enjoys, or otherwise to defeat him in the successful prosecution of his business, can do so by buying an unscrupulous walking delegate. A strike will be ordered and the men will go out. The walking delegate will receive

his pay, and the men will go without their wages; or, in times of great business activity, the men will be sent to work elsewhere until their former employer in turn pays the walking delegate the bribe demanded, to have them sent back to his shop or factory.

In seasons of intense competition in the building trade in large cities, the contractor who is known to always complete his contracts on time is in great demand. It counts to be known as one who has no trouble with his workmen. It is an injurious thing to have strikes. In the letting of contracts these considerations are most weighty. The intense activity of the twentieth century puts a premium on the doing of work rapidly. The unscrupulous walking delegate will not only keep the liberal contractor free from strikes, but will see to it that a rival contractor has strikes and interminable delays on all his work. And when skilled labor is scarce and there is not enough to go around, the liberal contractor has a strike called on enough of his rival's work to secure for him the hands he needs.

Out of all this, organized labor gets nothing but disrepute and loss of wages. The union has to bear the odium; and the men, forced into periods of idleness, suffer loss they can ill afford to bear. It is a significant fact that nearly all the building operations carried on in the city of New York during the summer of 1903 were under contract

by a single concern—the company that cashed the checks for Sam Parks, the notorious leader of the working men's unions of the building trades of that city.

But it is not alone because of the unscrupulous, the dishonest leaders that the union members are made to suffer, but it is also to the honest, short-sighted leaders whose minds fail to grasp the import and effect of economic conditions that bring discords and strikes into existence.

Fortunately, there are other styles of leaders. It is men of the character and ability of John Mitchell and Frank S. Sargeant who have made possible the bettering of the condition of the American working man. The present condition of labor is a monument to the unselfish, upright, energetic character of the leaders of the unions in the days that have gone, and to the present leaders of the same class.

If all the leaders were of the type of Mr. Herman Robinson, and would give to the members of their union the advice he gave to the motormen and conductors of the New York and Queens County Railroad, at a meeting called for the purpose of considering the advisability of a strike, no necessity would exist for the penning of these lines.

To the statement of one of the members of the union, "The union must control the road," Robinson replied:



"My friend, the union can never control the road. The company controls the road. All that the members of the union have any right to do, so far as the road is concerned, is to agree on the terms on which they will work for the company or quit if they don't get them."

The two types of leaders may be illustrated by the statement made by C. P. Shea, president of the International Brotherhood of Teamsters, in 1907, "I do not consider anything a violation of an agreement that is done to uphold the principles of trades-unionism," and the words of Grand Master Morrissey of the Brotherhood of Railway Trainmen, spoken before the national convention of his union in 1903, "We shall see the time when we will regard the contract-breaker . . . with as much contempt as we now regard the scab."

There was a Judas among the picked twelve chosen by Jesus Christ. There have been Judases in every body of men since the world began. There necessarily will be Judases among the many labor leaders in America. It is those who must be considered,—not the Johns nor the Jameses.

The power possessed and exercised by honest, upright labor leaders redounds to the benefit of the members; but the power which may be abused by unworthy men should be so hedged about that evil can not result therefrom. Be-

fore leaving New York for the penitentiary, Sam Parks made this significant statement:

“ Every laboring man in this country should remember me for years to come. I should be a warning to them. I ’m the victim of a custom that is older than I am, and that is the habit of having money transactions with employers. They put me here. I could name one hundred employers who have made a practice of using labor unions against competitors. I know plenty of employers who have made fortunes by the use of money on a young fellow who has never made more than a couple of dollars a day, and has been put in authority by his union.”

Whatever the merits of a strike or a lockout may be, the contending parties have no right, moral or legal, to inflict injury on an innocent party. And as the public is injured and suffers a direct loss as a result of every strike or lockout of any magnitude, the public has the right to demand and to receive protection. There are three parties to every labor controversy—the employer, the employed, and the public.

In a large number of strikes and lockouts, the public probably experiences little or no inconvenience, and, therefore, is not financially interested in them; but in many instances the loss suffered is so great that it cannot be computed.

The time has come when the government should provide every needed safeguard for the interests

of employers and employees, and should no longer allow them to rend society by their quarrels.

In 1897, the entire engineering trades in England became involved in a general strike, which was fought to its finish in January, 1898. The result of the strike was that England lost trade which she is likely never to regain. On the other hand, the prosperity enjoyed by America during the past ten years, in the machine and tool trades and in the steel, iron, and metal-making industries, is due very largely to the impulse given when English factories were idle.

In the United States the people will not soon forget their experience in 1902. The long-protracted anthracite coal strike in Pennsylvania caused factories to close, thereby throwing innocent men out of employment, stopping the income of the factory-owners, curtailing business enterprises throughout the American Union, and bringing to thousands suffering from cold and hunger.

The Indiana Labor Commission, in discussing the rights of the public during labor disturbances, says:

“A strike in a factory would not jeopardize the public's interest to the same extent that one would on a street-car line of a populous city or on a railway system.

“Strikes and lockouts involving or largely affecting freight and passenger traffic cause inconveniences and losses of the gravest consequence, and that fre-

quently culminate in a necessity for repression by force. . . . Frequently the injuries sustained by the public are more grievous than those of either contestant, or both combined, for that matter. Several times this situation has existed in Indiana, and disastrous consequences have followed. . . . Those with experience and observation know that often labor troubles progress with an ever-increasing intensity; both sides become deaf to reason, refuse to yield, compromise, or arbitrate. . . . Meantime, the helpless public must drift defencelessly along, suffering from evils for which it is in no wise responsible, and from which there is no relief until the combatants are either coerced by force or have expended their ill-directed strength, and by their exhaustion are forced to quit the fight. Thus upon innocent persons are entailed pecuniary losses.”<sup>1</sup>

The consolidation of industries has already gone so far that a strike in any one of many of the giant corporations may cut off nearly the whole supply of one article, and it may be an article that the public cannot be deprived of without entailing suffering or loss. If it is a necessity for the poor, the injury which the stoppage would cause would be most grave, but even though it be not an absolutely necessary article, and even though the consumers of it be not the very poor, the sudden closing of the source of supply would bring injury to a vast number of people who would have no part in the

<sup>1</sup> Report for 1899-1900, p. 11.



pending dispute, but do have an undoubted right to protection.

A strike or a lockout is one of the very few customs handed down to this generation from early days. It was the ancient barbaric way of settling private controversies. In olden times, all matters of difference were tried by a personal contest between the parties in dispute. The stronger man won. Might made right. But as the world grew older, and the principles that underly an enlightened civilization developed, men saw that such contest did not determine the merits of the controversy, but only the strength of the contestants; so courts were established to act as arbitrators, in order that the controversies might be decided on their merits.

“Viewed from ideal conditions,” writes John Mitchell, “a strike is a barbarous method of settling industrial controversies. It is a struggle of endurance, a question of might, not right. It is a war carried into the industrial field, and, like all war, attended by cruelty and suffering; it is a feudal conflict, in which many besides the immediate contestants are grievously injured. Thus, from an ideal point of view, the necessity for even occasional strikes constitutes one of the strongest indictments against civilized society.”

Daniel J. Keefe, president of the Longshoremen's Association, has recently said:

“Labor strikes are but another species of war. As modern war, owing to the invention of modern appli-

ances for the destruction of life and property, becomes more terrible, so also does the strike of to-day become more serious, owing to the general strength and intelligence of the forces of labor, and the loss to the victor and vanquished correspondingly heavy. Let us try to consider the meaning of a strike in the United States, where the entire force of organized labor was arrayed against capital. The mere contemplation of such a crisis makes my blood run cold. Imagine for a moment what this would mean. It would mean nothing if not war."

So long as the law provides no court for the effective settlement of labor controversies, the only weapon labor has for the defence of its interests is the refusal to work, except upon agreed terms. As conditions now exist, once the laborer refuses to work on the employer's terms, he immediately sees another man taking his place, thus rendering his one and only weapon powerless. What wonder, therefore, that the working man, facing permanent loss of employment, and hunger threatening his helpless family, so often resorts to violence and brings into existence conditions so deplorable? How much more just it would be for the public generally to substitute, in place of condemnation, a legal tribunal in which the working men may obtain redress for their grievances and where the questions in dispute between the employer and his employees may be settled on the basis of right and equity.

Mr. Nicholas Paine Gilman sums up the situation very clearly from the stand-point of the public in these words:

“The public is the supreme court of appeal, and it does not approve of trade-unions making war on employers’ associations; or of employers’ associations fighting trade-unions to the bitter end; or of trade-unions and employers’ associations banded together to fleece the public.<sup>1</sup>

<sup>1</sup> *Methods of Industrial Peace*, p. 15.

## II

### THE SOLUTION

#### PLAN I

THE final solution of the "labor problem" in all its phases will ultimately be found in the substitution of the Golden Rule, "Whatsoever ye would that men should do to you, do ye even so to them," for the David Harum golden rule, "Do unto the other fellow the way he 'd like to do unto you, an' do it fust," which to-day is the guiding policy of both employer and employee.

But the millenium is not yet in sight; it is still a long way off. And until this happy period is ushered in, it is imperative that some means be found, in addition to the spreading of Christian doctrines, to prevent the shutting down of factories, the closing of mines, and the stoppage of industry by strikes and lockouts.

Many thoughtful minds have come to consider the adoption of co-operative trade agreements as the most sane, reasonable, and equitable solution of this problem.

Mr. John R. Commons has well stated the



direction toward which the discussion of the labor problem is tending, in the following words: "Though organized for contest and marked by a history of struggle, the goal of unionism is the trade agreement."

By trade or industrial agreement is meant the contract entered into by an employer and his employee or employees, which provides all the details as to the term of service, wages, hours of labor, and conditions under which the work is to be done, and a further provision in case of a dispute as to the terms of the contract, for the submission of such difference to arbitrators whose decision shall be binding on all the parties thereto.

The adoption of the industrial agreement will in a large measure do away with all friction which might lead to a strike or lockout, foster stable and kindly relations between the employer and employee, and will solidify interests and steady the industrial community.

It accomplishes these ends by reason of the fact that, since the agreement is to remain unaltered for a definite period of time, sudden and frequent disputes are not apt to arise. Ordinarily, either party, if discontented with the working of the agreement, quietly bides the time until a new agreement can be made. Further, the employer is deprived of the position he so often takes of reducing wages on the bald assertion that he is not getting at present a fair return for capital and

ability. In collective bargaining, he must produce facts and figures to sustain his contention. The union, likewise, when making a demand for an increase of wages, must be prepared to substantiate its position by solid arguments based not only on the general condition of the business and the profits realized, but also on the cost of living. "Bluffing," which now plays such an important part in every labor controversy, will be practically eliminated from the discussion of the terms of an industrial agreement. Of course, a compromise will probably be the result of any discussion, neither party gaining its full demand, but such is the result in all other cases of bargaining.

"In the great majority of strikes," declares Nicholas Paine Gilman, "the question is commonly a matter of minor terms and conditions; it is not a matter of the life or death of the business. There is a fair chance of adjustment if both parties become more reasonable, and the parties are wise to continue the *status quo* until all possibility of a settlement has disappeared."<sup>1</sup>

Mr. John Mitchell has recently said:

"The idea of the joint trade agreement is the essence of trade-unionism. We have now 350,000 men working under conditions which are fixed by joint agreement. . . . The trade agreement makes for peace in the industrial world."

<sup>1</sup> *Methods of Industrial Peace*, p. 251.

But the evolutionary development of such an idea is of slow growth. It takes time to teach men the necessity of pulling up the peg which marks their attainment in any direction, and of going forward a few steps before driving it in again. In the meantime, vigorous lessons must be brought home to all minds in order that views may be changed, prejudices obliterated, and conservatism be made to give way to new forces.

As the bulk of the manufacturing, milling, and mining business in the United States is done by corporations, and as corporations receive their charters from the individual State governments, the State Legislatures must be appealed to, to frame laws that will protect the public from loss arising out of industrial disturbances, until such time when trade agreements shall be entered into and lived up to by all corporations and their employees.

The State, which gives to a group of citizens a charter of incorporation, has the power to provide rules and regulations for the use of that privilege. This power, limited only by constitutional provisions, has never been denied.

Let the State require all corporations chartered in the State, or employing men and women to do business in the State, to employ only by means of a written contract. Further, let the State declare that no contract between the corporation employer and its employees shall be binding

unless in writing signed by the parties thereto.

If a corporation should employ any person except by means of a written contract the corporation should be liable to have its charter annulled by action brought for that purpose by the Attorney-General on behalf of the State.

Let the State provide that the written contract of employment entered into by the corporation employer with each of its employees shall clearly state the term of service, the kind of service to be rendered, and the wages to be paid.

In case of the breach of such contract without good and sufficient legal cause—by the employer discharging its employee, or by the employee leaving before the expiration of the term stipulated in such contract,—the Supreme, County, or City Courts, upon suit brought by the aggrieved party against the other, which suit should be returnable in five days after the service of the summons, should award judgment directing the carrying out of the terms of the contract, and in case of default in so doing, assess the damage resulting from the breach thereof, which should be stipulated in the contract to be the amount to become due under the terms of the contract, and direct the payment of the same as follows:

(A) If the judgment is against the corporation and a property execution issued thereon has been returned wholly or partly unsatisfied, an execution may be issued against and levied upon the prop-



erty of any one or all of the officers and directors of the corporation, who shall be personally liable for the payment of such judgment.

(B) If the judgment is against the employee, and such employee is unmarried, or is married and his wife and family are not dependent upon him for support, an execution may attach to all his property, with the exception of his clothing, and to all sums earned by him as wages or salary in excess of six dollars per week; if he is married and has a family dependent upon him for support, an execution may attach to all his property except what is specifically exempted by law, and to all sums earned by him as wages or salary in excess of nine dollars per week. Upon an execution being presented to the employer of such judgment debtor he shall retain out of the wages or salary to be paid to such employee the excess of the amounts exempted herein from execution, and shall pay such excess to the officer serving such execution.

The adoption of this plan would probably produce the following results:

(1) It would in no wise injuriously affect the working man who lives up to the terms of the contract which he has executed, but would provide a severe penalty for the breach thereof.

(2) It would in no wise interfere with the existence of the labor union, and would not in any way change the present labor conditions as

to terms of hiring, the wages to be paid, and the matter of "open" or "closed" shop.

(3) It would get the employer and employee into the habit of entering into a written contract of employment instead of an oral one, which is the custom to-day. This would make the employer and employee think more seriously of the duties and liabilities of the employment.

(4) It would forestall and prevent misunderstandings as to the terms of employment, which to-day so often lead to unfortunate complications.

(5) The penalty for the violation of the contract would deter both employer and employee from arbitrary action and would bring the parties together in case of dispute, thereby lessening the chance of a strike or a lockout.

(6) The most important result issuing therefrom would be that, by the coming together of the employer and employee for the discussion of terms and conditions of employment and for the preparation and execution of a written contract, trade agreements would finally be adopted in all cases of hiring.

## PLAN II

IN the event of the foregoing plan proving insufficient to reach the evils fronting the employer, the employee, and the general public, as a result of labor disputes, the following more drastic plan is suggested as a means of bringing to these three classes justice, peace, and prosperity.

The principle of arbitration is advocated very strongly by many economists as a means of preventing strikes and lockouts. Voluntary arbitration has proved to be of little protection to the public, as it is not generally and wholly believed in by employers and working men. In many cases of actual industrial conflict, when the weaker party to the controversy has been willing to submit the matter in dispute to arbitration, the stronger party has almost invariably taken the position that "there is nothing to arbitrate."

"Compulsory arbitration" is strongly, vehemently and passionately opposed by both employer and employee. The term "compulsory arbitration," in the literal sense of the words, is a verbal absurdity, but it refers to a definite idea which is well understood. It means that when men will not agree on a contract relating to wages or other

conditions of employment, and will not consent to some third party making a contract for them, they should be compelled by some higher power to arbitrate their differences.

The labor union declares that "compulsory arbitration" means the reducing of free working men to slaves—by the men being compelled to work for the hours and the wages determined by the arbitrators, thus depriving them of the liberty of contract; while the employer asserts that "compulsory arbitration" might mean to him the closing out of his business and the ruin of his fortune, by the arbitrators deciding that he must pay wages greater in amount than his business would warrant. Both positions are based on sound reasons. "Compulsory arbitration" might mean all that the employers and the unions claim. Such being the case, the public has no right to require such a method of settlement of labor disputes, except, possibly, as a last resort. Then how can the public be protected? By adopting a plan of arbitration lying just half way between these extremes.

The terms "strike" and "lockout" may be defined in the following words:

"A strike is a concerted withdrawal from work by a part or all of the employees of an establishment, or several establishments, to enforce a demand on the part of employees.

"A lockout is a refusal on the part of an employer



or several employers to permit a part or all of the employees to continue at work, such refusal being made to enforce a demand on the part of the employers." <sup>1</sup>

As strikes and lockouts are generally local, that is, located within the boundaries of a single State, and as labor conditions vary among the several States, requiring different methods of treatment, a State law would be more just and satisfactory to all parties than would a Federal act. If Congress should enact a law compelling all who wish to engage in interstate or foreign commerce to incorporate under Federal charter, the following plan, with slight modifications, might form the basis of a national law.

Let the State enact a law embodying the following features:

A board of mediation, composed of three members, should be appointed by the Governor. One member should be an employer, or selected from some association representing employers of labor, and one member should be chosen from some labor organization and not an employer of labor; and the third member should be appointed on the recommendation of the other two, if such recommendation be made within thirty days after notice from the Governor; and if the two appointed shall not agree on the third member within the time specified, the Governor should make the

<sup>1</sup> *21st Annual Report of the Comr. of Labor, 1907, p. 11.*

selection. One member of this board should be appointed to serve for a term of three years, one for a term of two years, and one for a term of one year. At the expiration of the term for which each member is selected, his successor should be appointed to serve for a term of three years.

Whenever a collective controversy or difference concerning wages, hours of labor, or conditions of employment, not involving questions which may be the subject of a suit at law or a bill in equity, exists between the employees and their employer, being an individual, partnership, joint-stock company, corporation or other combination, who at the time employs not less than twenty-five persons in the same general line of business, the Board of Mediation should visit the locality of the dispute, obtain personal interviews with the parties thereto, offer suggestions which might lead to a conference, and advise the respective parties what, if anything, each ought to do, or submit to have done, in order to adjust their differences.

The employer who fears a strike or is threatened with blackmail, and the employee who dreads a lockout, will be apt to inform the Board of a threatened difficulty; and, with the assistance of a newspaper clipping bureau, the Board will be supplied with adequate information as to the existence of labor controversies.

The Board of Mediation should represent the public in all labor disputes. Its aim should be to bring the contending parties together and to try, by mediation, to effect a settlement of the differences. While the questions of the amount and time of payment of wages, hours of labor, working arrangements, and the recognition of trade unions, have caused many industrial disturbances, one of the chief causes of labor troubles, and one that serves to widen the breach between the employer and the employees, is their ignorance of each other and their lack of appreciation of the importance of studying each other's interests, to the end that each may contribute to their common welfare and the success of the industry with which they are identified. If the employer and his employees, or a committee representing the true interests of his employees, were to sit around the same table and listen to each other's arguments—endeavoring to get each other's viewpoint and to understand each other's reasons, learning to give as well as to take, holding vital opinions steadfastly but expressing them moderately, keeping the mind open to conviction, desiring to come to a sound and fair conclusion—the effect would be that of promoting mutual good feeling, confidence, and sympathy; it would remove misunderstandings, take away the power of unscrupulous labor leaders; and, coming to know each other better, suspicions would fade



away, and the employer and employee would learn to respect and trust each other.

The good effects of non-participants in labor controversies acting as peace-makers are well illustrated in the teamsters' strike in Boston in 1906, which had passed entirely beyond the control of the teamsters' own representatives, and which was finally settled by the efforts of a cigar-maker and a horseshoer. The longshoremen's strike, later in the same year, was settled by a freight-handler, a horseshoer, and a furniture mover.

Dr. Carroll D. Wright, in his lecture "How Battles of Labor are Treated," says:

"The work of the Anthracite Board of Conciliation is significant not only in itself, but in its results. From its organization, in June, 1903, up to August, 1905, one hundred and forty-one cases were submitted to it for arbitration. Ten were complaints by the mine owners and one hundred and thirty-one by the mine workers. Of the total number of complaints submitted, forty-six were withdrawn and twenty-eight were not sustained, making seventy-four complaints which had not sufficient basis to warrant their presentation to the Board. Of the remainder nineteen complaints were sustained, three were partly sustained, eleven mutually settled, three compromised, and thirty-one were left pending. Seventeen cases were sent to an umpire, the board being evenly divided on them. Most of these cases were decided against the miners, but the decision in all cases,



whether against the miners or against the operators, was accepted as final, and no break in the work of the miners occurred. There was hardly one case disposed of, by the Board or by the umpire, which under other conditions would not have precipitated a strike."

Fundamentally, there is no hostility between capital and labor. Neither can do without the other; the interest of the one is the interest of the other, and on the prosperity of the one depends the prosperity of the other. Each is deeply interested in the establishment of a living wage; the employer, that his business may not be endangered by strikes, and the employee, that he may secure a high standard of living. As long as working men earn less than they believe to be necessary for decent existence, they are likely to inaugurate a strike. On the other hand, were living wages paid, and were the union represented by a leader, intelligent and honest, whose sole mission was to take proper care of his men, there would be little danger of a strike.

No truer statement has been made than the following from the pen of the former Chief-Justice of Vermont, Hon. Jonathan Ross:

"Capital and labor are interdependent. Neither can be prosperous and in a healthy condition without the other is equally so. Neither can be in good demand unless the other is also. They should be friends and work harmoniously together. Otherwise both are injured, the public incommoded, and the prosper-

ity and commerce of the nation imperilled. Hostility and warfare between these classes is destructive of the true interests of both and of the highest welfare of the public—as destructive and as much out of place as they would be between husband and wife, if they would maintain a happy, prosperous home and household.”<sup>1</sup>

These facts are not generally appreciated, and will not be until the employer and his employees become accustomed to meet in a friendly spirit to discuss their joint affairs. While passion or false pride stands in the way of an easy meeting between the employer and his employees, a disinterested third party, offering neutral ground for interviews, may frequently succeed in bringing about such a conference. Mediation or conciliation, of course, will not always serve to avert a rupture, but in many cases, unless clear questions of principle are involved, an honorable settlement of differences can be brought about through this agency.

As the name implies, the office of the Board of Mediation should be solely that of offering suggestions. If the parties in difference cannot come to an agreement, the Board should suggest the advisability of appointing arbitrators to adjust the matters in dispute. If each party to a controversy believes that his position is fair, neither

<sup>1</sup> “Labor’s Warfare and Capital’s,” *American Industries*, April 1, 1904.

ought to object to the matter in difference being presented to a disinterested party or parties to determine the merits of the case and to make the award.

If the parties should fail to come to an agreement and should refuse, after a reasonable time, to submit their differences to arbitration; or if a strike or a lockout should occur and the parties to the collective dispute should fail, after a three-days notice, to notify the Board in writing of their willingness to submit the difference to arbitration, each side naming one arbitrator and agreeing to allow the two arbitrators selected to name the third arbitrator; or if after investigation the Board should be convinced that an attempt at extortion or blackmail had been made by a labor leader, accompanied by a threat to call off from a job the members of a union, or a demand for a bribe to keep the men working, the Board should bring the matter to the attention of the Industrial Court.

An Industrial Court should be organized under the judicial system of the State. It should be a movable court, holding its sessions in the courthouse located nearest to the place where the controversy arose. It should be presided over by three judges to be elected by the people. Upon the adoption of this plan, one judge should be elected to serve for a term of six years, one for a term of four years, and one for a term of two

years. At the expiration of the term for which each judge is elected, his successor should be elected to serve for a term of six years.

Cases should be brought before the Court by the Board of Mediation or by either of the parties in dispute, by filing a certificate with the Court, stating fully the subject of the controversy. A copy of this certificate should be served upon the employer—if a corporation, upon an officer, if a firm, upon one of its members; and upon the employees—if members of a union, upon the president or secretary, and if not members of a union, upon not less than ten of their number. Reasonable time should be given to the employer, the employees, and the Board of Mediation, for the filing of a separate statement of the facts in dispute.

If, without good cause shown, any party to the proceedings before the Court should fail to attend or to be represented, the Court should have the right to proceed as if he had duly attended or had been represented.

The Court should sit in the full light of publicity, except when the judges deem it for the best interests of the litigants to hold secret sessions. The employer, the employee, and the Board of Mediation should be permitted to appear by attorney, to subpoena witnesses, and to compel the production of all books and papers necessary for the trial of the controversy.



In the matter of the production of the books of the employer, the Court should use the utmost discretion. The inspection of books should not be allowed unless the Court is satisfied that such inspection is absolutely essential in the interests of justice, and then, only in cases of the most extreme necessity should such power be exercised.

No person should be excused from testifying or from producing before the Court books, papers, tariffs, contracts, or agreements on the ground or for the reason that such testimony or evidence, documentary or otherwise, required of him, may tend to criminate him or subject him to a penalty or forfeiture. But no person should be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he might testify or produce evidence before said Court in any case or proceeding, except for perjury committed in so testifying.

The Court should not be bound by the hard-and-fast rules of evidence that prevail in the civil courts; great latitude of procedure should be allowed, so as to enable the Court to arrive at a just conclusion.

Whenever an industrial dispute should involve technical questions, the Court should have the power to direct the appointment of two experts, one to be chosen by each party to the dispute, to act as advisers.

The Court should have the right to enter and inspect any institution, establishment, factory, workshop, or mine that will be affected by the decision of the Court.

The Industrial Court should have power to hear, try, and determine all controversies of every name, nature, and description not cognizable by the State Courts, arising between the employees and their employer, if at the time he employs not less than twenty-five persons in the same general line of business, relating to the following subjects:

(1) Wages, allowances, or remuneration of persons employed or to be employed.

(2) Hours of employment, sex, age, qualifications, or status of employees, and the mode, terms, and conditions of employment.

(3) Established custom or usage of any industry.

(4) Claim of members of a union to be employed in preference to or to the exclusion of non-union members.

The Court in its decisions should leave the employer free to employ labor if he so desires; it should leave the working man free to work or not, as he may desire. But it should say to the employer: "You must pay the wage determined for the number of hours of labor decided by the Court to constitute a day's work, or you must cease to employ labor. If you disobey, you will

be in contempt of court and be liable to a fine or imprisonment." And the Court should say to the employee: "You must work for the wage and the hours determined or you must seek employment elsewhere and not interfere with the men who are willing to work on the terms set forth in the award. If you disobey, you will be in contempt of court and be liable to a fine or imprisonment."

By "interference" is meant:

(a) The use of opprobrious or insulting language, such as "scab," to one who has succeeded or who is attempting to succeed to his position.

(b) The use of force or threats of personal injury, or other means of intimidation to working men or to members of their families.

(c) The hindering, blocking, or stopping of the business of the employer.

(d) The printing or circulating of any notice of boycott, boycott cards, stickers, dodgers, or "unfair" lists, publishing or declaring that a boycott or ban exists or has existed or is contemplated against any employer doing a lawful business.

(e) The displaying of banners and the printing or circulating of handbills and circulars of any kind as a means of threat or intimidation to those employed or seeking employment.

(f) The placing of a patrol or picket in front of an employer's place of business, office, factory,

mine, or store, or loitering about the employer's premises in order to prevent the persons employed from continuing therein, or to deter others from seeking or taking employment, or to induce customers to trade elsewhere, or to, in any manner, interfere with any lawful business of the employer.

It is a grave question whether this provision in all its subdivisions would be upheld as constitutional. According to the trend of present-day decisions, its constitutionality in some aspects is doubtful. But, for the purpose of awakening and forming a public opinion on this subject, it would seem advisable to enact this provision into law, even if some of the features should prove unenforceable; for public opinion in the United States when focused on a given subject is the most powerful regulation and deterrent under our governmental system.

The Court should recognize the existence of labor unions. Labor has a right to combine and to associate for the purpose of raising the standard of living, and to choose the class of men with whom its members shall work. As the laws of most of the States provide that the employer shall not be liable for any injury suffered by his employee, if such injury is due to the carelessness or negligence of a co-employee, to deny to the working man the right to choose his co-laborers would be an act of injustice which no court should uphold.



Former Chief Justice Parker of the New York Court of Appeals, in the case of National Protective Association of Steam Fitters and Helpers *v. Cumming*, wisely said:

“ Their restriction of membership to those who have stood a prescribed test must have the effect of securing careful as well as skilful associates in their work, and that is a matter of no small importance in view of the state of the law which absolves the master from liability for injuries sustained by a workman through the carelessness of a co-employee. So long as the law compels the employee to bear the burden of the injury in such cases, it cannot be open to question but that a legitimate and necessary object of societies like the defendant association would be to assure the lives and limbs of their members against the negligent acts of a reckless co-employee; and hence it is clearly within the right of an organization to provide such a method of examination and such tests as will secure a careful and competent membership, and to insist that protection of life and limb requires that they shall not be compelled to work with men whom they have not seen fit to admit into their organization. . . . It is well known that some men, even in the presence of danger, are perfectly reckless of themselves and careless of the rights of others, with the result that accidents are occurring almost constantly which snuff out the lives of workmen as if they were candles, or leave them to struggle through life maimed and helpless. These careless, reckless men are known to their associates, who not only have the right to protect themselves from such men, but in the present state

of the law it is their duty through their organizations to attempt to do it, as to the trade affording special opportunities for mischief arising from recklessness.

"I know it is said in another opinion in this case that 'workmen cannot dictate to employers how they shall carry on their business, nor whom they shall or shall not employ,' but I dissent absolutely from that proposition, and assert that, so long as workmen must assume all the risk of injury that may come to them through the carelessness of co-employees, they have the moral and legal right to say that they will not work with certain men, and their employer must take their dictation or go without their services."<sup>1</sup>

Such rights the Industrial Court should recognize to this extent: It should permit the union to refuse to allow its members to work with non-union men; it should not permit the union to order a strike or to interfere with non-union men if an employer chooses to employ non-union men; it should provide in its decisions that the employer should not employ non-union men without first giving to the union employees a two-weeks notice of his determination so to do. This notice would enable the employees to secure other positions, and at the same time the employer would have ample time to provide a new working force. If the employer should employ a non-union man where only union men are employed, without giving such two-weeks notice, he should be liable

<sup>1</sup> 170 *N. Y. Reports*, p. 315 (1902).

to a fine, followed by imprisonment if such fine is not paid.

The union can control its members—it can fine, suspend, or expel the one who works for less than the minimum wage it has agreed upon; but if the employer is free to employ the expelled members, the discipline of the union is gone. The closed-shop restriction is the necessary protection for the maintenance of the minimum wage.

The Court should recognize the right of employers to discharge their employees, and should not permit any interference on the part of labor unions in this regard. The employer should be as free to discharge as to employ; and the laborer who claims the right to work or to quit work must recognize and respect this right. This right is admitted by John Mitchell, who has written, "The unionist has no vested interest in his job, and the non-unionist may legally take it whenever an opportunity presents."

The Anthracite Strike Commission voiced the opinion of the American people on this subject in these words:

"The right to remain at work where others have ceased to work, or to engage anew in work which others have abandoned, is part of the personal liberty of a citizen, that can never be surrendered, and every infringement thereof merits, and should receive, the stern denouncement of the law. All government



implies restraint, and it is not less, but more, necessary in self-governing communities than in others to compel restraint of the passions of men which make for disorder and lawlessness. Our language is the language of a free people, and fails to furnish any form of speech by which the right of a citizen to work where he pleases, for whom he pleases, and on what terms he pleases, can be successfully denied. The common-sense of our people, as well as the common law, forbids that this right should be assailed with impunity. It is vain to say that the man who remains at work while others cease to work, or takes the place of one who has abandoned his work, helps to defeat the aspirations of men who seek to obtain better recompense for their labor, and better conditions of life. Approval of the object of a strike, or persuasion that its purpose is high and noble, cannot sanction an attempt to destroy the right of others to a different opinion in this respect, or to interfere with their conduct in choosing to work upon what terms and at what time and for whom it may please them so to do.

“The right thus to work cannot be made to depend upon the approval or disapproval of the personal character and conduct of those who claim to exercise this right. If this were otherwise, then those who remain at work might, if they were in the majority, have both the right and the power to prevent others, who choose to cease work, from so doing.

“This all seems too plain for argument. Common sense and common law alike denounce the conduct of those who interfere with this fundamental right of the citizen. The assertion of the right seems



trite and commonplace, but that land is blessed where the maxims of liberty are commonplace.”<sup>1</sup>

It would be well to remember this fact, stated so clearly by Nicholas Paine Gilman: “In a lock-out the employer discharges his workmen from being his employees. In a strike the workmen discharge him from being their employer.”<sup>2</sup>

The Court should not in its decisions require any radical change to be made in the manner in which employers conduct their business. Such changes as justice may require should be prescribed by acts of the Legislature. The Court should allow the employer to make such rules for the management of his business as he sees fit, without interference by the judiciary.

In determining the minimum wage to be paid to employees, the Court should take into consideration three classes of evidence: *First*; the customary wage paid in the industry; *second*, the cost and standard of living; *third*, the ability of the employer to pay a higher wage, irrespective of previous rates and the necessary expenses of the working men.

When an Industrial Court fixes a minimum wage, it necessarily bases its decision upon a certain quantity and quality of work which should be fully set forth in its decree. The Industrial Court should merely establish that the

<sup>1</sup> Report, p. 75.

<sup>2</sup> *Methods of Industrial Peace*, p. 249.

employer in question shall not pay less wages than the sum named for work of a prescribed quantity and quality. Its decision should not preclude an inquiry by the ordinary courts into the question of the workman's compliance or non-compliance with the quantity or quality of the work stated. If an employee sues his employer in a court of law for the minimum wage, he must prove that his work in quantity and quality is equal to that prescribed by the decree of the Industrial Court; if his work be inferior in these respects, he should recover a smaller sum of wages. If an employer is prosecuted in the ordinary courts upon the charge of paying less than the minimum wage to his employees, the government must prove not only the payment of less than the minimum wage but also that the work performed by the employee was equal to the standard prescribed by the Industrial Court; and if the government fails to prove these facts, the accused employer should be found not guilty. These provisions will protect the employer from the injustice of being compelled by law to pay standard wages for work below the standard, and renders the law of the Industrial Court just and equitable.

In the course of a trial or investigation, the Industrial Court should make all suggestions and do all such things as appear to the judges to be right and proper to secure a fair and amicable

settlement of the industrial dispute; and, in the event of an agreement being reached by the parties in difference, the Court should enter its decree according to the terms of settlement.

The decision of a majority of the members present at a sitting of the Court should be the decision of the Court.

The decision of the Court should be binding for a period of from one to two years. The progress of industry necessarily causes inequalities. Prices change. The wages of a given period may after a time have more or less value as a purchasing power. The earnings of the employer may increase so that he ought to pay higher wages; his earnings may decrease to a point where he must pay less or go out of business. The rate established to-day may be fair and satisfactory to both parties, but in a short time may become unfair and unsatisfactory. Wages and profits are continually changing, so a decision binding longer than two years might work injustice.

When the Court awards an increase of wages, the time for the award to take effect should depend upon the contracts made by the employer. It would be unjust to an employer to compel him to pay a higher rate of wages after he has entered into contracts based on a lower scale, unless it is clearly apparent that he has entered into such contracts to forestall a decision of the Industrial Court.

The officers of corporations should be personally liable for all fines imposed upon the corporation and for all violations of the orders of the Court, to the same extent as an individual employer of labor; and every employer, worker, or person committing or concerned in committing, a violation of the Court's orders, should be liable to a penalty.

An appeal to the Court should act as a stay of all proceedings whatsoever in the dispute; no employer shall close his works or dismiss his workers, and no employee shall strike or discontinue any work of his employer, on pain of being treated as in contempt of court; the relationship of employer and employee shall continue uninterrupted by the dispute or anything arising out of the dispute. This prohibition, however, should not extend to the suspension or discontinuance of any industry or of the working of any persons therein for any cause not constituting a lockout or a strike.

For an employer to declare or cause a lockout after an appeal has been taken to the Industrial Court, or for an employee to go on a strike after such appeal has been taken, such act should be made by statute illegal and, in addition, be considered as a contempt of court and the guilty parties should be punished by a fine.

It is somewhat doubtful, under the present trend of decisions, whether this provision would



be upheld by the courts as constitutional. For the good of the community, laws have recently been enacted and upheld as constitutional which invade the rights and privileges heretofore enjoyed by the individual, and regulate even the degree of personal liberty which citizens may enjoy. Laws are in force which regulate the home life so that the neighbors might not be annoyed, which compel the sending of children to school, whatever may be the wishes of the parents, which provide how a man must build his house, his factory, and his theatre, and even prescribe the clothes a man must wear. From analogous reasons, the peace and quiet of the community require that all industrial conflicts should be forestalled and prevented. If such power could not be legally vested in the Industrial Court, the scathing denunciation of public opinion must serve as a penalty for the creating of a strike or a lockout after the subject of dispute has been brought before the Industrial Court.

“No amount of reliance on the ‘sacred right of free contract,’” declares Prof. E. R. A. Seligman, “will in the long run prevent society from asserting its paramount claims to the maintenance of industrial peace. No community will permanently brook opposition to these plain dictates of self-preservation and social progress.”<sup>1</sup>

The awards of the Industrial Court should not

<sup>1</sup> *Principles of Economics*, p. 447.

be set aside for any informality, or be appealed from, reviewed, quashed, or called in question by any tribunal whatever. But the Court should have power to reconsider its hearings, and either side should be permitted to present a petition, upon notice to its opponent, praying for a rehearing. If sufficient grounds be shown, the matter should be reopened. Thus the possibility of injustice being done would be minimized.

The government should be in a position to say to the employer and employee:

"You must get together and peaceably settle your dispute. You will not be allowed to fight out your question of difference, thereby disturbing business conditions, sacrificing human life, and destroying private property. The public must and shall be protected.

"If you do not voluntarily settle your controversy, the Industrial Court will settle it for you."

The fear of compulsory arbitration, represented by the Industrial Court, would be a constant menace to both employer and employee. Neither party, ordinarily, would dare to have the Industrial Court adjust their differences and render a judgment which would be enforced by a fine or imprisonment; and, rather than submit their affairs to such a tribunal, industrial agreements would undoubtedly be entered into and the employer and employee would work together on an established basis, without fear of a strike

or a lockout, and without bringing injury to the general public.

The proposed Industrial Court as heretofore outlined is but a modification of the laws of New Zealand, Victoria, and other colonies of Australia, modified so as to bring them within the spirit of American jurisprudence and American principles of liberty. The main features of the plan here presented have been tested by experience, and the results have exceeded the fondest expectations of those who framed the original laws.

Judge Blackhouse, who was commissioned in 1901, by the government of New South Wales, to inquire into the working of compulsory conciliation and arbitration laws in New Zealand, Victoria, and other colonies, after exhaustive local inquiries, reported as follows:

“The act has prevented strikes of any magnitude and has, on the whole, brought about a better relation between employers and employees than would exist if there was no act. It has enabled the increase of wages and the other conditions favorable to the workmen, to which, under the circumstances of the colony, they are entitled, to be settled without that friction and bitterness of feeling which otherwise might have existed; it has enabled employers, for a time at least, to know with certainty the conditions of production and therefore to make contracts with the knowledge that they would be able to fulfil them; and indirectly it has tended to a more harmonious

feeling among the people generally which must have worked for the weal of the colony. A very large majority of the employers of labor whom I interviewed are in favor of the principle of the act. . . . The awards generally have been in favor of the workers, and it is therefore easy to understand that the unionists to a man believe in the act, and, as I have already mentioned, the non-unionists, as far as my observation goes, find no fault with it."

The Victorian Commission of 1902-03 reported, after their investigation of the operation and effect of the compulsory arbitration laws of New Zealand, as follows:

"Despite certain defects in detail which have been revealed by experience, the New Zealand Conciliation and Arbitration Acts remain to-day the fairest, the most complete, and the most useful labor law on the statute-books of the Australasian States. . . . It has the great merit of providing effective means for preserving unimpaired the industrial relationship of employer and worker, in forbidding the miserable warfare which displays itself in strikes and lockouts, and the stern reprisals which too often accompany them, while ample opportunity is given for conciliatory methods of settling disputes before compulsion is invoked.

"The law may fairly be said to have passed successfully through its period of probation. Its main principles have stood the test of time, and, while employers and workers alike keenly criticise each other's actions in connection with its operation in



certain industrial centres, in no part of the colony which we visited did we hear any general desire expressed for its repeal. Many suggestions were, indeed, made for minor alterations, but they were put forward with the view of improving the general administration of the act, while preserving its main principles in their integrity."<sup>1</sup>

Victor S. Clark, Ph.D., an investigator of wide experience and sound judgment, in his report to the United States Bureau of Labor in 1903, on "Labor Conditions in New Zealand," says:

"The industrial Conciliation and Arbitration Act of New Zealand has proved in operation an exceedingly powerful and comprehensive instrument for submitting private industry to public regulation and control. . . . While it is neither candid nor literally true to call New Zealand a land without strikes, no serious labor disturbances of this character have arisen since the arbitration law went into effect. . . . The true statement of the case is that, while there have been difficulties of this character, they have been as a rule exceedingly unimportant; they have not occurred among workers directly subject to the act, and with the extension of the jurisdiction of the court through amendments to the law to cover allied industries and the increasing number of awards and the growth of organization among the workers, such troubles as have occurred are becoming more and more rare. . . .

"It would seem to an observer coming from out-

<sup>1</sup> Report, pp. 23, 24.

side the colony that the effect of the arbitration law upon industrial development and general business prosperity has been very greatly exaggerated by both its advocates and its opponents. . . . Opinion, therefore, is evidently divided, but working men as a class are in favor of, and employers as a class are opposed to, the present arbitration law. . . .

"Still, it is doubtful if there is an employer of importance in New Zealand who would return voluntarily to the system of strikes. They would amend and modify, probably entirely remodel, the present legislation, but they would retain in some form or other its essential principle. Public opinion in the colony has been cultivated into a position where it would hardly tolerate again a free fight between employers and employees. This feeling was voiced by a man of much local prominence, an employer of a large amount of labor under the act, and one of the most intelligent and consistently logical and dispassionate opponents of the present labor legislation in the colony. At the close of the conversation he was asked: 'Would you repeal the present laws in such a way as to make strikes the only ultimate method of settling industrial disputes?' He thought a moment, and then replied: 'I was in Chicago recently, when your building trades were on a strike. I saw armed men standing at the corners of your new Federal Building there, to protect the workmen from the strikers. No, I don't want to see a change of our laws that will permit of such conditions here. . . .'

"The law has not been a failure, though many inconveniences have been experienced from its workings. It has accustomed the community to the idea

of making law supreme in industrial disputes, and this is an idea that will not easily disappear. With all its apparent defects the act is a success beyond the expectation of many of its early supporters. Practical legislators have considered it worth transplanting, with modifications not impairing its essential principle, to several of the states of the Australian commonwealth. There, meeting new conditions, many of them more similar to our own than those prevailing in New Zealand, the law is almost certain to be further modified in practical application, and still more completely adapted to the diverse conditions of modern industrial life. One concludes an investigation with this conviction: that a line of legislation has been started in New Zealand to remedy one of our greatest industrial evils that will in all probability continue to expand and develop from its present tentative and experimental condition until it has solved, or greatly contributed toward solving, so far as the collective will of society can, the problem that brought it forth."<sup>1</sup>

The reports of Judge Blackhouse, the Victorian Commission, and Mr. Clark cannot be criticised as being partial, unfair or prejudiced; they voice the competent and disinterested testimony of all observers. A system which has had ten years of continuous success in New Zealand, a country of whose population 95 per cent. is English and where education is free and universal, and intelligence is general, certainly ought to

<sup>1</sup> Bulletin No. 49, pp. 1227, 1228, 1235, 1248, 1255.

commend favorably to the American mind the principles of conciliation and compulsory arbitration as a just, equitable, and common-sense method of settling labor differences and conflicts.





## THE NEGRO PROBLEM



## I

### THE PROBLEM

FIFTY years ago, the American negro was but a few generations removed from savagery. At that time he was living in a state of slavery, wherein every aspiration toward a higher life and every inclination to improve himself, morally or intellectually, were crushed out by his master. Marriage, according to the Christian idea, was practically unknown,<sup>1</sup> and when contracted was neither recognized nor protected by law, the sale of a slave away from his home and family being "a virtual decree of divorce and so recognized, not only by usage, but by the deliberate decree

<sup>1</sup> Major Sargent, in an appendix to a report to the Freedmen's Bureau on his district in Arkansas, gives extracts from the order book of a Mr. C., a planter in that State. The book contains instructions to his overseer, and was found in his house, which he had abandoned on the approach of the Union forces. One extract is as follows: "The plantation is to produce 400 bales of cotton, 40,000 pounds of pork, 50 stacks of oats, 75 stacks fodder, 8 stacks millet, ten Negro Children." He then arranges for producing the children by ordering the pairing of "Henry and Susan, Cambridge and Matilda, Sandy and Yellow Kitty," etc.



of the churches.”<sup>1</sup> All attempts on his part to found a home modelled after the white man’s were discouraged. Religious and educational training were not only withheld from him, but in many States the imparting of religious instruction to the negro was prohibited by law, and in the sixteen slave-holding States of the South the teaching of the “three R’s” to the slave was punished as a crime, the penalty being a fine, imprisonment, or whipping.<sup>2</sup> And in the absence of statute law, public opinion in all the Southern States forbade the education of the negro. Work on his part was never free and spontaneous, but was enforced under the lash of the overseer’s whip.

Lacking education, even in its rudimentary branches, knowing but little religion save the superstitions imported from Africa, having no conception of the meaning of morality, possessing no home life based on the marriage relation, looking upon work as an enforced tax, the American

<sup>1</sup> The Negro Church Report of 8th Atlanta University Conference, p. 56.

<sup>2</sup> In 1832 the law of Alabama provided that “Any person or persons who shall attempt to teach any free person of color or slave to spell, read, or write, shall, upon conviction thereof by indictment, be fined in a sum not less than \$250 and not more than \$500.” The Georgia statute of 1829 provided for a punishment by fine, whipping, or imprisonment for teaching a negro to read or write, while the States of North Carolina, South Carolina, Louisiana, Missouri, and Virginia had laws forbidding the teaching of negroes. The States of Kentucky, Mississippi, and Tennessee by law excluded negroes from the schools.

negro was but an untutored child of nature when Abraham Lincoln, on January 1, 1863, issued his Emancipation Proclamation.

Before the negro had time to realize what emancipation truly meant to him, before the chains of slavery had in fact been stricken from his body, the Federal Constitution was amended and citizenship with full political privileges was conferred upon him.

The sudden transition of the unlettered, uncivilized, pagan negro from the position of slave—a position he had occupied in this country for 245 years—to that of freedom and political prestige, without preparation of any kind on his part, naturally engendered unwholesome aspirations and un-American tendencies. The first effects of emancipation are always harmful to the moral and physical well-being of the liberated class. The transition of the life of any people from a state of conscious and willing obedience to one of self-directing manhood, is invariably a period of danger. The removal of physical restraints, before moral restraints have grown strong enough to take their place, must inevitably result in misconduct. To the average negro, freedom meant freedom from labor. Idleness at once became his greatest pleasure. To be a gentleman of leisure, to leave the plough idle and the hoe untouched, and to meet with other negroes in the streets, and to spend the day in loafing, chatting,

shouting, oftentimes in drinking, dancing, and fighting, was his way of enjoying his freedom. The license of freedom was the only feature that appealed to him.

Most of the negroes were inoculated with the idea expressed by the socialist Bax: "Labor is an evil to be minimized to the utmost. The man who works at his trade or vocation more than necessity compels him . . . is not a hero but a fool."<sup>1</sup>

The American negro entered on his career of freedom without the ownership of real property or possessions of any kind save the tattered garments upon his body. He was without capable self-direction and without the provident oversight which responsible ownership gives. He had no aspiration to create, and no ambition to enter a trade. General Grant, in his report of December 11, 1865, to President Johnson, as to the work of the Freedmen's Bureau, said:

"The belief widely spread among the freedmen of the Southern States that the lands of their former owners will, at least in part, be divided among them, has come from the agents of this Bureau. This belief is seriously interfering with the willingness of the freedmen to make contracts for the coming year. . . . Many, perhaps the majority, of the agents of the Freedmen's Bureau advise the freedmen that by their own industry they must expect to live. . . . In some instances, I am sorry to say, the freedman's mind

<sup>1</sup> *Religion of Socialism*, p. 94.



does not seem to be disabused of the idea that he had a right to live without care or provision for the future. The effect of the belief in the division of lands is idleness and accumulation in camps, towns, and cities."

Legislation made the negro a legal citizen, but it did not educate him to the point of living the life of a strong, valuable citizen; it gave him a legal right to vote, but it did not teach him how to vote intelligently. And unscrupulous politicians, realizing his ignorance and his childishness, at once began a crusade to debauch him. They flattered him on his equality with his former white masters, and taught him that votes were a commodity to be bought and sold, and they thereby obtained for themselves political power, while the seeds sown have brought forth the fruitage the South is unhappily reaping to-day.

If as a result of the changed social and economic conditions, and the altered environment, the negro had developed otherwise than he has, the race itself must have had fuller intuitional knowledge and greater strength of character than has been possessed by any other race in the history of the world. Unfortunately, this people were naturally no better and no worse than were many of the races of the earth in the same stage of development, which races are now classed among the present-day civilized nations.

The twentieth century found the American negro race (of course with many striking excep-



tions) ignorant, poor, and lazy. It saw superstition of the grossest type held tenaciously by a large portion of the race, with uncleanness almost universal, and immorality rampant. It witnessed the fiery race antagonisms which retarded the negroes' advancement and which often found vent in the use of the faggot, the rope, and the shot-gun. It beheld the dark, portentous clouds raised by politicians to keep the negroes from exercising their political rights as citizens, and it heard the dire warnings raised to engender hatred toward the negro and to force him back into virtual slavery. Such are some of the present-day evils surrounding the negro in the Southern States.

In considering the negro in his relation to the social, industrial, and political life of our nation, we must accept the facts—the cold, hard facts—as they exist. The negro is here in America, and he is here to stay. The nine millions in the South are increasing so rapidly in number—to wit, about 150,000 a year<sup>1</sup>—as to preclude the serious con-

<sup>1</sup> The following table of negro population and rate of increase is based on Census Bulletin 8, *Negroes in the United States*, p. 29:

Date of Census.	Population.	Increase during preceding 10 years.	Per cent. of increase during preceding 10 years.
1860	4,440,000		
1870	4,880,000	440,000	9.9
1880	6,580,000	1,700,000	34.9
1890	7,480,000	900,000	13.5
1900	8,830,000	1,350,000	18.0

Walter F. Wilcox, "Probable Increase of the Negro Race

sideration of their deportation. Experience has demonstrated that the negroes are unwilling to return to the lands from which our forefathers brought them. To deport the negro against his will, with our knowledge that exported Africans lose in a short time their power of resistance to the climatic and malarial conditions of the Dark Continent, and that the second and third generations of exported negroes have no greater power of resistance to its life-sapping, fever-laden atmosphere than have the pure white races, would be an iniquity which no civilized people would perpetrate. But Southerners would not deport the race, even if they could, for it is to the toil of the negro that they owe the greater part of the agricultural products of ten States, and nearly one sixth of the entire tillage of this country. The negro race in America will not die out; it has increased from four and a half millions to nine millions in forty years. Neither will it be exterminated by internal feuds or conflicts with its white neighbors; it will remain a separate race and will not be absorbed by any process of intermarriage; it will never again be reduced to slavery, but will remain free and will, to a very large extent, dwell in the South. The negro people are so intricately interwoven into all Southern industries that the South cannot profitably

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in the United States," vol. 19, *Quarterly Journal of Economics*, p. 547.

supplant them, or go forward without their aid.

The negro and the white race in the South are indissolubly linked together in many ways, and on the welfare of the one depends the welfare of the other. The low standard of living among the negroes keeps down the wages of all classes of whites. So long as the negro is content to live in a miserable hut, dress in rags, and subsist upon hog-fat and cow-peas, so long must the wages of the white man engaged in the same kind of work be pressed toward the same level. The higher the standard of living among the negroes, the higher will be the wages of the white people in the same occupation. The negroes' propensity to crime is a constant incitement to the criminal tendencies of the white man. The crimes of one race provoke counter-crimes on the part of the other. The physical weakness and uncleanness of one race affect the well-being of the other, as diseases are easily spread and contagion is not limited to the color of the skin.

In 1899, when the last census was taken, negro farmers in the United States owned 23,383 square miles of territory, a territory as large as that of Holland and Belgium combined, which supports 12,000,000 people.

In 1907 the negro paid taxes upon more than \$354,000,000 worth of property, upon which stand over 500,000 houses occupied by him.

The negro belongs to an undeveloped race and is many centuries behind his white competitor in the cultivation of those qualities which make for progress.

A generation of estrangement has almost completely destroyed the point of attachment between the races which had existed under the slave régime, and their relationship is daily becoming less intimate and friendly and is growing more business-like and formal.

Such being the almost undisputed facts, the question of the development of the negro race alongside of the white American is one full of complexities, uncertainties, and dangers. But the light of history has furnished suggestions on the manner of the development of other races, so that the American people are not left entirely in the dark as to the methods to adopt. Then, again, experiments have been made and the results carefully watched, measured, and tabulated so that well-defined facts have been deduced through the use of which the American negro may grow into a citizen worthy ultimately to take his place by the side of his white neighbor.



## II

### THE SOLUTION

#### I—EDUCATION

(A) UNIVERSAL EDUCATION.—History clearly and distinctly teaches that every people that has succeeded in governing itself has been one of general intelligence. Not a single instance is recorded where a people without a high degree of intelligence has for any length of time maintained a democracy. When a few citizens are intelligent and the great mass of the members who compose the society are lacking in intelligence, the inevitable result has been and always will be that power will centre in the hands of the few intelligent members, and imperialism will take the place of democracy.

If the social mind is ignorant, then public opinion will be wrong in its premises and social life will be on a low plane. No society will be progressive and self-sustaining whose public opinion is not strong and elevated. This result requires a general intelligence based on universal education. While it is true that in any community a

few of the intelligent members create public opinion, it is also a well-recognized fact that unless the mass of the people have sufficient intelligence to absorb and assimilate the ideas of the leaders, the social life will be under the control of the ideas dominating the majority.

The dangers which ignorance brings on society are well illustrated in the poem "Whose Is the Fault?" written by Victor Hugo by the lurid light of burning Paris in 1871:

"Addressing an incendiary, caught in the very act, he says, 'You come from burning the Library?' 'Yes, I set fire to that.' 'But it is an unheard-of crime!—a crime committed by yourself against yourself, infamous creature!'

"Then, with impetuous, uncontrollable eloquence, he recited all that books are, and all they have done and can do for the slave, the unhappy, 'for knowledge comes first to man, then comes liberty'; and he portrays in impassioned words what these treasures would have been to the man himself; at last, pausing from his tumultuous speech, he turns upon the wretch with an apostrophe that should be overwhelming, 'And you, you destroy all this!' To this terrible accusation the man, unmoved, simply replies, 'I cannot read!'" <sup>1</sup>

The ignorant man is not only a dead weight, but a positive opponent of social progress. Being

<sup>1</sup> *American Education in the Industrial and Fine Arts*, by Isaac Edward Clarke, Part I., p. cx.

unable to comprehend the advantages of a higher civilization which appeal to the intelligent, he is content to live and move and have his being amid the conditions in which he was bred.

Rev. Henry Ward Beecher, in his lecture on "The Reign of the Common People," has voiced the almost universal opinion of students of racial development on this subject:

"It is held that it is unsafe for a State to raise ignorant men. Ignorant men are like bombs, which are a great deal better to be shot into an enemy's camp than to be kept at home, for when an ignorant man goes off he scatters desolation; and it is not safe to have ignorant men, for an ignorant man is an animal, and the stronger his passions, and the feebler his conscience and intellect, the more dangerous he is. Therefore, for the sake of the Commonwealth, our legislators wisely, whether they be republican institutions or monarchical institutions or aristocratical institutions, have at last joined hands on one thing—that it is best to educate the people's children, from the highest to the lowest, everywhere."

Education is the only means whereby a man may fit himself to become a useful citizen. It is, therefore, not only the supreme need but the imperial right which belongs not to a particular race, or to a particular class, but to every human being. If the members of a democracy are to rule, they must have the knowledge and wisdom which nothing but education can impart.

Hon. James MacAllister, President of Drexel Institute, Philadelphia, in an address, "Art Education in the Public Schools," stated these important truths:

"The social condition of man has now reached a high degree of complexity. This social condition can be protected, can be properly developed, only so far as the provisions for education provide for the training of youth for their social duties and responsibilities. . . . To state the problem in a few words, our duty is so to organize the forces that make for right living that they shall always be the dominant power in the social organization, and it is only when we come to recognize this condition as fundamental to all growth in human well-being that we can get a proper comprehension of what is involved in public education at the present time.

"When the education of the pupil is looked at from this point of view, it is seen that its greatest power must be exerted where the dangers to the social organism are greatest, *i. e.*, among the very poorest classes. There is more need of the refining influences of the best education among the debased and neglected elements of population in our large cities than among the children of the rich and prosperous; and hence the movement of the last few years to carry the most improved forms of our education among the lowest classes is an indication of the growth of public sentiment in the right direction, and is a feeling that will undoubtedly grow in strength as social problems are more carefully studied."<sup>1</sup>

<sup>1</sup> *Am. Education*, Part II., pp. cxxiv., cxxv.



The present high social, economic, and educational condition of the United States is due very largely to the fact that the founders of the Republic put aside as erroneous the prevailing world-wide notion that the education of certain special classes in a community was all that was required to promote the common weal, and firmly implanted as a cardinal doctrine that man, instead of a class, was the unit of civilization and that democracy depended on the recognition of each man as of equal worth and importance to every other man, and that equality of opportunity is at the bottom of social progress. The abolition of the aristocratic conception of education was the beginning of the upward growth of the American people.

“A community is not rich,” says Walter H. Page, “because it contains a few rich men, it is not healthful because it contains a few strong men, it is not intelligent because it contains a few men of learning, nor is it of good morals because it contains good women—if the rest of the population also be not well-to-do, or healthful, or intelligent, or of good morals. The common people is the class most to be considered in the structure of civilization. . . . The security and the soundness of the whole body are measured by the condition of its weakest part.”<sup>1</sup>

Republics gain their strength and perpetuity from the self-governing force of the people; and

<sup>1</sup> *Rebuilding of Old Commonwealths*, p. 3.

in order to be self-governing a people must be educated. Moreover, all good laws that are cheerfully obeyed are but the emphatic expression of public sentiment.

It has become a truism in this country that the material, as well as the moral prosperity of our people depends on their general intelligence, and that the teaching of those subjects which excite into a healthful exercise the intellectual nature of children cannot fail to lay a sure foundation for material and moral wealth. And it is upon the recognition of this fact that the government provides the means for the education of the children of the people. The well-known saying of Jules Simon, "The first people is that which has the best schools; if it is not the first to-day, it will be the first to-morrow," has been fully justified by the history of American national education.

But, not only from a social and political standpoint is education of the supremest value, but it is also of great importance to man as an economic factor.

Walker, in his *Political Economy*,<sup>1</sup> says:

"Intelligence is a most powerful factor in industrial efficiency. The intelligent is more useful than the unintelligent laborer: (a) Because he requires a far shorter apprenticeship. . . . (b) Because he can do his work with little or no superintendence. . . . (c) Because he is less wasteful of his materials. . . .

<sup>1</sup> Pp. 52, 53.

(f) Because he readily learns to use machinery, however delicate or intricate."

A series of investigations, embracing many kinds of labor and extending all over the United States, entered into by the U. S. Commissioner of Education in 1870, plainly demonstrated the following facts<sup>1</sup>:

(1) That even such scant measure of education as enables one to read print adds sensibly to the wage-earning capacity of the laborer in most kinds of labor, while ability to read and write with ease greatly increases the wage-earning capacity.

(2) That an average free common-school education, such as is provided in all the States where the free common-school has become a permanent institution, adds 50 per cent. to the productive power of the laborer, considered as a mere productive machine.

(3) That the average academical education adds 100 per cent.

(4) That the average collegiate or university education adds from 200 to 300 per cent. to the worker's average productive capacity.

"Now, surely," said the great educator Horace Mann, "nothing but universal education can counteract this tendency to the domination of capital and the servil-

<sup>1</sup> Annual Report of U. S. Comr. of Education for 1870, cited with approval by Dr. Jarvis in Circular of the Bureau of Education No. 3, 1879, and by I. Edward Clarke in *American Education*. U. S. Educational Report, 1885.

ity of labor. If one class possesses all the wealth and the education, while the residue of society is ignorant and poor, it matters not by what name the relation between them may be called; the latter, in fact and in truth, will be the servile dependents and subjects of the former. But if education be equally diffused, it will draw property after it, by the strongest of all attractions; for such a thing never did happen, and never can happen, as that an intelligent and practical body of men should be permanently poor. Property and labor in different classes are essentially antagonistic; but property and labor in the same class are essentially fraternal. . . . Education, then, beyond all other devices of human origin, is the great equalizer of the conditions of men—the balance-wheel of the social machinery. . . . It does better than disarm the poor of their hostility towards the rich; it prevents being poor. Agrarianism is the revenge of poverty against wealth. The wanton destruction of the property of others . . . is only agrarianism run mad. Education prevents both the revenge and the madness.”

The child is the most valuable undeveloped resource of the State. It is the most sacred thing in and to a democracy. The child, whether born in a mansion or in a hovel, has implanted within his body native capacity capable of development into the highest type of citizenship. At its worst, the child is capable of growing into a useful citizen.

The future of the State is dependent on the children of the present. They are the units that make



up the State. If the education of the children is neglected, the level of civilization will be lowered. The more perfect the education of the child of to-day, the more perfect will be the state of to-morrow.

"The education of the people," said Macaulay, "ought to be the first concern of a state, not only because it is an efficient means of promoting and obtaining that which all allow to be the main end of government, but because it is the most efficient, the most humane, the most civilized, and in all respects the best means of obtaining that end."

That education is considered an absolute necessity for citizens of the United States, and for the maintenance and stability of our institutions, may be seen from an examination of the constitutions of the different States of the Union. In all the States the Legislature is required by suitable legislation to encourage and promote the education of the youth and to compel those between certain ages to attend school.

"Education is an inalienable right in America," declares Andrew S. Draper, Commissioner of Education for New York State.<sup>1</sup>

The courts of England and of the various United States have uniformly held that education was a necessity for an infant, the same as are food, clothing, and shelter. So universal has been the

<sup>1</sup> *Journal Nat. Ed. Assn.*, 1905, p. 97.

support given to the cause of education that the people of the United States were startled in 1904 by the news from Mississippi that Mr. James Vardaman had been elected Governor of that State on the platform "No white taxes to teach negroes." In his inaugural delivered January 19, 1904, Governor Vardaman stated that education for the negro is a curse; no white man's taxes should be wasted on the black man's education; "God Almighty created the negro for a menial; he is essentially a servant" and should be treated accordingly.

There is no denying the fact that many Southerners of intelligence have a strong prejudice against the education of negroes. But is not the basis of this attitude due to the kind of education that has been furnished to the negro rather than to any intelligent reason for withholding from the race the education most needed—the education which will increase his efficiency as a worker, develop his character into well-rounded completeness, and make of the black man a good and valuable citizen?

In 1901 a joint investigation into negro skilled labor was made by the *Chattanooga Tradesman* and the Sociological Department of Atlanta University. It was not an exhaustive inquiry and there is no way of knowing what proportion of the employers of skilled negro laborers were reached. The answers of the employers to the question

"What effect has education had on the negro artisan?" are as follows:

Answers.	Establishments answering.	Negroes em- ployed.	
		Skilled.	Semi- skilled.
"Bad Effect".....	16	73	66
"No effect".....	9	134	22
"A little learning is a dan- gerous thing".....	4	30	57
"Little effect".....	4	7	13
"Cannot say".....	5	41	—
"Helps some, hinders others"	5	31	—
"Would help, if industrial"...	1	40	—
"Good effects".....	28	257	89

If the negro is to be without education, he will soon drift back into the conditions existing during slavery, but without the restraint of the master. Without education—of the brain, the heart, and the hand—the negro will be nothing more than a common, unskilled laborer. Having no association with the whites, no knowledge of books, none of the origin, purpose, and sanctity of society, of modern economic organizations, of the functions of government, of individual worth and the possibilities of human development, the negro, by nature shiftless, improvident, and careless, will inevitably reach the condition where indolence will take the place of industry, where want will induce thievery, and where lassitude will stimulate crime. Slowly but surely, the negro, if his education be abandoned, will drop in successive genera-



tions into lower stages of barbarism, if not into savagery. As was well said by Dr. J. L. M. Curry, "Ignorance is not a remedy for anything."

But can the negro be transformed into a law-abiding, intelligent, moral, upright citizen? A horse captured wild may, by training, become a useful adjunct to man. A dog may be taught to be the faithful guardian of a sheep pasture. Nearly all animals, by proper training, may be made useful to man and valuable to society.

The history of American slavery is the history of the training of the negro; and when slavery ceased as an institution, the negro had been trained to till the soil and to do acceptably the work of blacksmithing, wagon-making, carpentering, brickmaking, painting, and plastering.

It has been clearly demonstrated that the American negro has the same besetting infirmities and vices as those of the European races under similar conditions, and, therefore, how can one who has studied the life and history of the negro—a human being with a soul, a conscience, and a mind—assert that he may not be educated to the point of becoming a useful member of society? To those who think that it is only the white citizen of America who has the capacity to grow morally and intellectually, it is well to remember that not more than twenty-five per cent. of the colored people of the South are of pure negro origin, and that the race is permeated not only by the blood of white



Americans, but by some of the "best white blood" of the States in which they were born.

The but recently ignorant slave, with his primitive characteristics practically undeveloped, cannot reasonably be expected to absorb the culture of his former master in half a century; the development of a race is a slow process. It took the children of Israel four hundred years to recover from their Egyptian bondage, and the Germans hundreds of years to absorb the Roman culture, while the Anglo-American is the product of the upward development of the race since time began.

At the time when the slave trade was at its height, the negroes in Africa were living in a state approaching savagery. Cannibalism was prevalent; slavery in its worst forms was universal; religion was a mass of the grossest superstitions; the sexual passions were ungoverned; marriage was a living together for a longer or shorter time; human life was subject to the will of the chief; social and climatic conditions made accumulations of property unnecessary; and education and culture had never entered their life.

Coming from such a home on the Dark Continent, living in the Southland under conditions of slavery, and having but a half-century of freedom to develop the native faculties, but little can be expected of the race at the present time.

As a matter of fact, however, there is no dead line in education beyond which the American

negro cannot go. Negroes have taken the highest honors at Yale, and at Harvard, and at seventy other colleges, in competition with white scholars; and over four hundred negroes have received the Bachelor's degree from these institutions.

These evidences of achievement are a clear demonstration of the possibilities of the race and are an indication of the heights to which this people is capable of attaining.

To-day, all schoolhouses, of whatever sort, opened to the negro in the Southland are crowded with pupils willing and anxious to learn, thereby evidencing a strong tendency on the part of the race to improve and develop intellectually.

The question of the relative capacity of the white and black races as to acquisitive faculties and inquisitive power possesses only an academic interest. It is sufficient to know that the negro possesses the ability to acquire knowledge, to interpret it in terms of his own thoughts and feelings, and to apply it effectively to the world's work.

Mark the words of our first President, George Washington: "Promote, then, as an object of primary importance the general diffusion of knowledge. In proportion as the structure of a government gives force to public opinion, it is essential that this should be enlightened." And, finally, consider the advice of the present occupant of the White House, Theodore Roosevelt:

"The white man, if he is wise, will decline to allow

the negroes in a mass to grow to manhood and womanhood without education. Unquestionably education such as is obtained in our public schools does not do everything toward making a man a good citizen, but it does much. The lowest and most brutal criminals, those for instance who commit the crime of rape, are in the great majority men who have had either no education or very little; just as they are almost invariably men who own no property; for the man who puts money by out of his earnings, like the man who acquires education, is usually lifted above mere brutal criminality."<sup>1</sup>

Nothing can be more certain than this illuminative fact that if the white people of the South, the people who know the negro thoroughly, and who are fully aware of the effects of all the efforts made for his improvement, could perceive any dangerous problem, any evil tendencies arising out of the education of the negro, they would not be engaged in taxing themselves from one year to another in order that he may receive the benefits of education. Men will theorize when it costs them nothing, but only those will suffer deprivation who firmly believe in the cause for which they give. Every Southern State is appropriating money for the education of the negro, and there is not a Southern community that is not contributing its due share.

"Who," asked Thomas Carlyle, "would suppose that

<sup>1</sup> Message to Congress, December 5, 1906.



education were a thing which had to be advocated on the ground of local expediency, or, indeed, on any ground? As if it stood not on the basis of everlasting duty, as a prime necessity of man. It is a thing which needs no advocating. To impart the gift of thinking to those who cannot think, and yet who could in that case think—this, one would imagine, was the first function a government had to set about discharging. Were it not a cruel thing to see, in any province of an empire, the inhabitants living all mutilated in their limbs—each strong man with his right arm lamed? How much crueller to find the strong soul with its eyes sealed, its eyes extinct, so that it does not see. . . . Heavier wrong is not done under the sun.” And exclaimed Carlyle: “That one man should die ignorant who had capacity for knowledge, this I call a tragedy.”

(B) ELEMENTARY SCHOOLS.—Although the negro was freed against the protests of the South, no sooner was the emancipation an accomplished fact than the Southern white man, though facing destitute homes, blasted hopes, shattered industrial systems, and staggering under his burden of poverty, set about the task of educating the colored man for freedom. Four and a half millions of totally uneducated colored people had been freed and left upon his hands for assimilation and for some form of education, with all but 200,000 of the race living south of the Mason and Dixon line. This involved the setting up of a double educational system, with all the extra expense which



such a plan involved. Heroically he worked in the face of odds not equalled in any other part of this country, and great was the good he accomplished.

The Freedmen's Bureau, established by act of Congress, March 3, 1865, from 1865 to 1869, with the expenditure of \$6,513,955, in addition to starting a system for free labor, of peasant proprietorship, and of securing the recognition of the colored freedman before the courts of law, founded 4239 free common schools for colored children throughout the South, under the direction of 9307 teachers and having an enrolment of 247,333 pupils. By 1870, every Southern State had made constitutional and legislative provisions for free schools and a general system of education. Twelve States had some form of control, eight had provided for county supervision, normal schools had been started in six, agricultural and industrial colleges in a still larger number, and progress had been made in grading the schools in the large cities. It is true that the North had helped in this work through the Peabody and other funds, and the Federal government had extended its aid; but the great bulk of labor and funds came from the South itself. Considering that but thirty-five years have elapsed since its educational machinery was really started, magnificent progress has been made.

Since that time the common schools in the South have been increasing in number year by year, and

have been improving rapidly in the grade of instruction given.

The United States Commissioner of Education has stated that between 1870 and 1900 the South disbursed for negro education \$109,000,000.<sup>1</sup>

The schools were largely elementary, for the work had to be begun at the bottom; but as the pupils were ready for them, those of higher grades were established, and in 1879, 61 intermediate or grammar schools for negroes were in operation and 74 high and normal schools, the latter with an enrolment of 8174 students. The freedmen themselves contributed about one fifth of the expense of maintaining these higher schools. The remainder of the funds were furnished by the Federal government and from private bequests from the North.

Among the many bequests from Northerners was that of George Peabody, known as the Peabody Fund. It consisted of \$2,000,000,—one half given in 1867 and the remainder in 1869. It was placed in the hands of trustees with the instruction that “the income thereof shall be applied in your discretion for the promotion and encouragement of intellectual, moral, or industrial education of the young of the more destitute portions of the Southern and Southwestern States of our Union; my purpose being that the benefits intended shall be distributed among the entire population

<sup>1</sup> Report of 1899-1900, vol. 2, p. 2501.

without other distinction than that of their needs and the opportunities of usefulness to them." This fund has been kept well invested under the trusteeship of leading educators, and up to the present time it has made available for use for the needy public schools nearly \$3,000,000. Besides the Peabody Fund, there is the Slater Fund of \$1,000,000, given by Mr. John W. Slater in 1882, administered through a board of trustees and devoted largely to the promotion of industrial education; and the "Daniel Hand Educational Fund for Colored People," of \$1,000,894.25, given by Mr. Daniel Hand of Guilford, Connecticut, in 1888, and which is devoted to general education throughout the South under its custodian, The American Missionary Association. In 1907, Miss Anna T. Jeanes of Philadelphia added a million dollars to the amounts already presented, the income of which is to be used for the sole purpose of assisting in the "Southern United States community, country, and rural schools for the great class of negroes to whom the small rural and community schools are alone available."

Despite all that has been done, the Sixth Atlanta Conference in 1901 said:

"We call the attention of the nation to the fact that less than one million of the three million negro children of school age are at present regularly attending school, and these attend a session which lasts only a few months. . . . Half the black youth of the land

have no opportunities open to them for learning to read, write, and cipher."

This condition is due to the fact that the former slave States spend only the sum of \$2.21 annually per child for educating negroes.<sup>1</sup>

There is, indeed, urgent need for the expansion of the education of the young negroes in the South if the race is to grow stronger and more civilized, and to prevent it from proving a check on the upward development of the white race and a source of weakness in our democratic American form of government.

While the home may be the first school for the white child, the home of the black child, except in a few instances, furnishes no instruction worthy the name.

Bishop J. L. Spalding has said:

"The world has made greater progress in the practical affairs of life during the last hundred years than in any preceding thousand; and the spread of enlightenment, diffused by the popular school, is the indispensable condition and largely the cause of this marvellous material and mechanical advance."

The mistake must not be made of thinking that the subjects taught in the schools for the past hundred years are, on account of their long retention, the most important to be furnished to the negro.

<sup>1</sup> Commissioner of Education, Report of 1900-1901, vol. 1, p. 101.



Education is a part of life and must continue to change as life changes. Conditions and requirements change from decade to decade; the environment surrounding an individual alters from generation to generation, modifying the lives of those within its embrace; and education must likewise become a progressive factor, progressive not only in its conception, aims, and ideals, but in its means, methods, and appliances.

The studies taught in the common schools should be those which bear directly on the need of the negro for instruction in self-preservation, in self-maintenance, and in the preparation for citizenship. The following subjects are suggested as those which will best aid in the development of the American negro as a man, a worker, and a citizen.

Reading, writing, and arithmetic—the three fundamental educational columns upon which the temple of useful knowledge is reared—should be the first subjects taught.

The underlying facts of physiology and the principles of hygiene, as a means to proper living, are of intrinsic worth to the American negro. The present ignorant, unsanitary mode of life of the negro is causing the spread of disease and is creating a large death-rate, which might be avoided by a little knowledge supplemented by some care on his part. The possession of a knowledge of physiology and hygiene would not entirely remedy this

evil condition, as the inclinations of many would frequently lead them, notwithstanding their knowledge, to sacrifice future good for present gratification; nevertheless, without knowledge of the laws of health no improvement will be made, while with knowledge much good may be expected to follow.

If, for example, the negro knew that typhoid fever is a water-borne disease, that pollution of streams is a crime against one's neighbor, and that most of the infectious diseases, including the great white plague, are preventable, he would undoubtedly check the ravages of these diseases among his people. The discovery of the germ sources of infectious and contagious diseases, and of the methods of their carriage from person to person, is so recent that it would be strange indeed if the negro race had any knowledge of the means of stamping out such maladies.

The compulsory health laws of the various cities act as teachers of the elementary principles of physiology, but as these laws do not extend to the negro settlements scattered throughout the Southland, the common school must be selected as the place where knowledge of self-preservation should be imparted. Carlyle has well said that "health is the highest of all temporal blessings."

A knowledge of geometry being indispensable to the surveyor who measures land, to the architect who designs buildings, to the builder who

prepares his own estimates, to the mason who cuts stone and lays foundations, and to the artisan who puts up a building, this subject is essential to a large part of the negro race who are engaged in these lines of trade.

Physics being invaluable to the architect, the builder, the mason, and the artisan, this subject is as important to the negro as is a knowledge of geometry.

Agriculture, the principal occupation of the Southern negro, to be carried on profitably in the future must be governed by a knowledge of chemistry and agricultural chemistry. The analysis of soils and manures and their adaptations to each other, the production of artificial stimulants and their proper application to the soil, the knowledge of what plants will enrich instead of drain the soil, the rotation of crops as aids to soil fertilization—are all dependent on an acquaintance with chemistry.

Mr. James J. Hill, in an address on May 14, 1908, before the conference of President Roosevelt and the Governors of the several States relating to the conservation of the natural resources of the United States, quoted the following statistics:

“According to the last census the average annual product per acre of the farms of the whole United States was worth \$11.38. . . . There were but two States in the Union whose total value of farm products was over \$30 per acre of improved land. . . .



Nature has given to us the most valuable possession ever committed to man. It can never be duplicated, because there is none like it upon the face of the earth. And we are racking and impoverishing it exactly as we are felling the forests and rifling the mines.

"Our soil, once the envy of every other country, the attraction which draws millions of immigrants across the seas, gave an average yield for the whole United States during the ten years beginning with 1896 of 13.5 bushels of wheat per acre. Austria and Hungary each produced over seventeen bushels per acre, France 19.8, Germany 27.6, and the United Kingdom 32.2 bushels per acre. For the same decade our average yield of oats was less than 30 bushels, while Germany produced 46 and Great Britain 42. For barley the figures are 25 against 33 and 34.6; for rye, 15.4 against 24 for Germany and 26 for Ireland. In the United Kingdom, Belgium, The Netherlands, and Denmark a yield of more than 30 bushels of wheat per acre has been the average for the last five years."

The most approved method of instruction in agriculture is well stated by Professor Jordan, director of the Maine Agricultural Experiment Station:

"The real and important need of which the farmer is conscious is for a knowledge of conditions and not for methods or for skill in manipulation. When he clearly understands the reason for that which goes on about him, the right method will appear. The



difficulties lie with the explanations, not with mechanical processes. . . . It is the explanation of the phenomena, then, which the extended course of study should give in order that the farmer may know how to adapt himself to the varying and complete conditions which he meets in his work."<sup>1</sup>

American history should be taught in the schools—not the mere recital of facts as set down in our average school histories, which give no clue to right principles of political action or throw light on the science of society; not the mere chronological arrangement of names and dates and battles, which afford but little help to educate a boy to become a judicious voter; but, rather, a history covering the discovery of the American continent, the organization and structure of our government, the lives of its foremost soldiers, statesmen, and patriots, the growth of the nation, and the principles underlying its upward development and the duties and privileges of citizenship.

The teaching of reading, writing, arithmetic, physiology, geometry, physics, agricultural chemistry, and American history will give to the negro youth some adequate preparation for living a healthy life, for becoming self-sustaining, and for developing into a worthy citizen.

(C) COLLEGES.—It is the God-given right of every human being to receive the fullest develop-

<sup>1</sup> Report of the Bureau of Education, 1896-97, p. 454.

ment his capacity warrants. The white man should remember, as Fichte expresses it:

"The marrow of the idea of justice is that each man has an equal claim with every other man upon the full development of himself."<sup>1</sup>

History teaches the unwisdom of withholding from any portion of a people the advantages of a general culture lest it render some unfit for work or discontented with their lot. Spain and Ireland on the one hand, and Switzerland and Holland on the other, plainly illustrate that those countries which neglect the higher education of their people have little chance with those which cultivate it.

The great mass of the American negro race are capable of receiving only rudimentary instruction; but there are a few members of the race who need a higher or college education in order to grow as fully as nature ordained.

A race develops intellectually only so far as is represented by its select members. If there are no members of a race more highly educated than the great mass of the people, no progress can be made, and when progress ceases, retrogression begins. Unless the advantages of a college education are brought to those who are capable of receiving it, the teachers will have so little valuable instruction to impart to their pupils that no generation will advance beyond its predecessor. College-trained teachers who possess the necessary

<sup>1</sup> *Ethik*, vol. i., p. 19.

knowledge, culture, and technical skill, and, above all, the purity of character and the divine flame of enthusiasm which is capable of lighting the lamps of ambition within the soul, are the only levers which will raise the race generation by generation on to a higher plane of intellectual life. An eminent authority has said that 85 per cent. of the value of a school lies in the personality of the teacher, leaving only 15 per cent. for all other means and appliances. Unless examples of higher education and culture are given to stimulate emulation, what incentive will there be for mental improvement? Every thoughtful person knows that these incentives are necessary for the white race, and is the negro race superior to the white race?

The teacher's mission is one of the greatest importance; the children he now trains will some day be the parents of a new generation, and the future destiny of the race depends largely on the way he fulfils his duties. Teachers should consider themselves, as Dr. Albion W. Small says, "not as leaders of children, but as makers of society."

The present grade of negro teachers, while showing a marked improvement over those of the past, are still far below the standard which the race requires in the instructors of their children. The fear, which has been expressed, that the race is threatened with an over-supply of college-

bred men and women, is one without any foundation. In 1903, Dr. Du Bois wrote:

“There are to-day less than 3000 living negro college graduates in the United States, and less than 1000 negroes in college.”<sup>1</sup>

The colored race, however, is not wanting in colleges and universities. The following are the leading institutions for the higher education of the negro, with the dates of their establishment:

Lincoln University, Lincoln, Pa. ....	1864
Wilberforce University, Wilberforce, Ohio. ....	1868
Howard University, Washington, D. C. ....	1868
Leland University, New Orleans, La. ....	1870
Benedict College, Columbia, S. C. ....	1870
Fisk University, Nashville, Tenn. ....	1871
Atlanta University, Atlanta, Ga. ....	1872
Biddle University, Charlotte, N. C. ....	1872
Southland College, Southland, Ark. ....	1872
Roger Williams University, Tenn. ....	1873
New Orleans University, New Orleans, La. ....	1874
Shaw University, Raleigh, N. C. ....	1874
Rust University, Holly Springs, Miss. ....	1874
Straight University, New Orleans, La. ....	1874
Branch College, Pine Bluff, Ark. ....	1878
Clafin University, Orangeburg, S. C. ....	1878
Knoxville College, Knoxville, Tenn. ....	1879
Clark University, South Atlanta, Ga. ....	1879
Wiley University, Marshall, Tex. ....	1880
Paine University, Augusta, Ga. ....	1882
Allen University, Columbia, S. C. ....	1883

<sup>1</sup> *The Negro Problem*, p. 66.



Talladega College, Talladega, Ala.....	1885
Virginia Collegiate Institute, Petersburg, Va..	1885
Paul Quin College, Waco, Tex.....	1885
Lincoln Institute, Jefferson City, Mo.....	1890
Morris Brown College, Atlanta, Ga.....	1890
Atlanta Baptist College, Atlanta, Ga.....	1893
Georgia Industrial College, Atlanta, Ga.....	1894
Delaware State College, Dover, Del.....	1894
Philander Smith College, Little Rock, Ark....	1894

Higher education as furnished by the colleges, contrary to the fears of many educators, has not unfitted the negro for earning a living, nor has it sent into the world men who can find nothing to do suitable to their talents.

Dr. F. G. Merrill, Dean of Fisk University, has prepared the following statistics of the present occupation of the 400 graduates of that institution, in answer to the statement of Charles Dudley Warner that higher education is doing the negro more harm than good, and is increasing his lawlessness and idleness:

College professors.....	8
Principals of high and normal schools.....	12
Principals of grammar schools.....	34
Teachers.....	165
Doctors.....	17
Ministers.....	19
U. S. government employees.....	9
Lawyers.....	9
Commercial pursuits.....	13

Students in professional schools.....	16
Wives at home.....	44
Living at home.....	13
Unclassified.....	9
Business and homes not registered at University.	32

In the 1902 report of the social study of the college-bred negro, made by Atlanta University, the returns as to the occupations of college-bred negroes show that 1312 out of 2000, the total number of graduates, reported as follows:

Teachers.....	53.4 per cent.
Clergymen.....	16.8 " "
Physicians, etc.....	6.3 " "
Students.....	5.6 " "
Lawyers.....	4.7 " "
In government service .....	4.0 " "
In business .....	3.6 " "
Farmers and artisans .....	2.7 " "
Editors, secretaries, and clerks .....	2.4 " "
Miscellaneous.....	.5 " "

Granting that even a considerable proportion of the third not heard from are unsuccessful, this is a record of usefulness of which these colleges may well be proud. Much greater is the danger arising from half-trained minds and shallow thinking than from over-education and over-refinement.

President Eliot of Harvard not long ago uttered these pregnant words:

"If any expect that the negro teachers of the South can be adequately educated in the primary schools or grammar schools or industrial schools, pure and simple, I can only say in reply that that is more than we can do in the North for the white race. The only way to have good primary schools and grammar schools in Massachusetts is to have high schools and normal schools and colleges, in which the higher teachers are trained. It must be so throughout the South; the negro race needs absolutely these higher facilities of education."

"Not a social class nor a struggling race can reach equality with other classes and races until its leaders can meet theirs on equal terms," declares that keen student of human affairs Mr. John R. Commons. "It cannot depend on others, but must raise up leaders from its own ranks. This is the problem of higher education—not that scholastic education that ends in itself, but that broad education that equips for higher usefulness. If those individuals who are competent to become lawyers, physicians, teachers, preachers, organizers, guides, innovators, experimenters, are prevented from getting the right education, then there is little hope for progress among the race as a whole, in the intelligence, manliness, and co-operation needed for self-government."<sup>1</sup>

(D) MANUAL TRAINING.—In the early days of the Republic, when our system of public education was still in its infancy, mental and manual education were rather closely connected. The

<sup>1</sup> *Races and Immigrants in America*, p. 52.

crude state of the manufacturing and agricultural industries brought into existence the apprenticeship system. Under this system the master bound himself to look after the mental and moral well-being of the apprentice besides teaching him the manual of his trade. By the youth's attendance for three or four months of each year, during his apprenticeship, upon the district school, the mental culture of the apprentice was not neglected. Alternating between school and shop, the mental and manual education of the apprentice went on hand in hand, each in an important sense guiding the other.

As time passed, the school gradually improved by the adoption of a larger number of subjects and a more thorough method of instruction, and more time was demanded from the student. In the industrial world, labor-saving machines were being invented, subdivision of labor set in, and the efforts of the individual became concentrated upon a very narrow range of work. Competition and the development of trade into diverse and complex branches left time neither for the master to teach nor for the apprentice to learn. The school and the shop became divorced, as the master found it cheaper to employ skilled labor than to train ignorant youths. Thus the apprenticeship system for learning a trade gradually passed away, never to return.

To-day, the student who enters a shop at fifteen



for a three or four years' apprenticeship seldom returns to school. The student who at eighteen finishes a high-school course, and enters a shop as an apprentice, often finds that his twelve or fourteen years of mental school-work have unfitted him for manual labor, even if he had not been taught to despise work with the hands.

Manufacturing, as conducted in the twentieth century in America, enables the man in the shop to learn only a small part of his trade, and that, usually, the mechanical part. Shop training, even where it is still possible, is too narrow to make a man versatile. If the one machine he learns to run becomes obsolete, he loses his position. He seldom has the opportunity to obtain instruction sufficient to enable him to adjust himself to changes brought about by the invention of new machines. As a result of the development of and transition in our manufacturing establishments, a corresponding change in the education of the industrial classes is demanded. The present educational need of a large majority of young men is for a return to the colonial system of the simultaneous training of the brain and the hand.

To-day, the need of manual training, as a part of a common-school education for every boy, is being duly recognized, and in many of the cities of the country manual-training departments have been added to the public-school systems. It is well known that Germany owes, in a very large

measure, its place in the industrial and commercial world to the universal system of trade schools throughout its dominions, which insures the label "made in Germany" to represent superior excellence in workmanship.

Industrial education is the complement of general education. General education is limited to the study of principles and theory: industrial education concerns itself with practice and application. Neither is complete without the other. "Learn by doing" is a motto beginning to be written large over all educational movements.

Former State-Superintendent Wickersham of Pennsylvania has strikingly said:

"It is not enough to instruct a boy in the branches of learning usually taught in our common schools and there leave him. It must be seen by some authority that he is allowed a chance to prepare himself to earn a livelihood. It takes more than a mere knowledge of books to make a useful member of society and a good citizen. The present product of our schools seems to be, in too great a degree, clerks, book-keepers, salesmen, agents, office-seekers and office-holders. We must so modify our system of instruction as to send out instead large classes of young people fitted for trades, for business, and *willing and able to work.*"

Dr. H. J. Hudson forcibly declares: "It is *desirable* that children should learn to think, but it is *indispensable* that they should learn to work."

The fundamental principle of industrial training has been keenly defined in these words:

"We are told that knowledge is power; but knowledge is not always power. There are men who are forever learning, yet never really know anything. . . . The intrinsic value of knowledge is always on the productive side. Change the adage so that it may read, '*Applied Knowledge is power,*' and we have at once the key to our present civilization and progress. This is just what we hope may be accomplished by industrial education."

The time has come when the State itself should recognize the relation between a higher type of manual education and the interests of material prosperity, just as it makes provision for the cultivation of the mental powers in order to develop the intellectual capacity of the community.

Mr. Arthur MacArthur, in his valuable work on *Education*, sums up his study of the results of manual training abroad in these words:

"It is a matter of general observation that manual training and ordinary teaching have been conducted in distinct parts of the same school for many years in Europe; and that generally the effect of this has served to enlarge the faculties, refine the taste, to give clearness and breadth to the intellect, to make the character more helpful and self-reliant, and to start the pupils with the best prospects of success in the practical ends of life."<sup>1</sup>

<sup>1</sup> P. 252.



Proper manual training gives the youth a respect for honest, intelligent labor. A boy who sees nothing in manual labor but mere brute force, despises both the labor and the laborer. To him all handwork is drudgery. With the acquisition of skill in himself comes a pride in its possession, and the ability and willingness to recognize it in his fellows. When once he appreciates skill in handicraft or in any manual art, he regards the possession of it with sympathy and respect, and life becomes not drudgery, but a pleasure.

With school and shop training combined, there will be no necessity for the teaching that labor is honorable in just the degree that it is intelligent. This view, this knowledge, will have become a part of the student's nature and a large element of his self-respect. No boy who has with his own hands used the tools of the machine shop, the carpenter shop, or the smithing shop, and who has learned by the sweat of his brow what it is to earn directive intelligence, can fail to recognize in every honest toiler a brother-man.

Industrial training in the schools would do more than any other force operative to-day to close the widening breach between capital and labor by the appreciation of the individual path each necessarily takes in the co-ordinate work of the two classes; to silence the professional political agitator who is constantly shouting that



the mental activities on the part of the non-producing employer are being used to absorb all the profits and to crush labor, by a practical knowledge of the falsity of his teachings; to do away with the erroneous notion that it is preferable to associate with any quack of a doctor or any shyster of a lawyer than it is to fraternize with him whose hands are callous through honest physical labor; to teach the universal brotherhood of man.

The object of the manual-training school is well set forth by Dr. Belfield in his inaugural address delivered before the Chicago Manual-Training School Association:

“The distinctive feature of the manual-training school is the education of the mind, and of the hand as the agent of the mind. The time of the pupil in school is about equally divided between the study of books and the study of things; between the academic work on the one hand, and the drawing and shop work on the other. Observe, I do not say between *school work and shop work*, for the shop is as much a school as is any other part of the establishment. Nor do I mean that the shop gives an education of the hand alone, and the class-room an education of the brain; but I mean that the shop educates *hand and brain*. That the hand is educated I need not stop to prove; but the shop educates the mind also. . . . The fact should never be lost sight of for an instant that the product of the public school should be, not the polished articles of furniture, not the perfect piece of machinery, but the polished, perfect *boy*. The

acquisition of industrial skill should be the means of promoting the general education of the pupil, the education of the hand should be the means of more completely and more efficaciously educating the brain."

The universal demand is that the school shall put its graduates more directly in relation to the actual needs of our civilization.

Manual training means using the hands, as intellectual training means using the mind. And the time to begin the teaching of manual training is when the child first enters school. Froebel recognized this when he founded the kindergarten, which is largely juvenile manual training.

What is a most vital consideration, and one which is often overlooked, is the fact that the development of the motor centres of the brain depends in a large degree on the exercises of the young, and that the development period of the hand centres occupies but about ten years. Dr. James Crichton-Browne, the eminent English scientist, whose views have received the assent of many of the foremost students of the training of the hand, declares:

"There can be no doubt that its most active period [of development] is from the fourth to the fourteenth year, after which these centres become comparatively fixed and stubborn. Hence, it can be understood that boys and girls whose hands have been left altogether untrained up to the fifteenth year are

comparatively incapable of high manual efficiency ever afterward."

Our people are now realizing that it is as essential for a boy to learn how to drive a nail straight, how to insert a screw neatly, how to fit two edges of a plank together, how to make a square box, as it is for him to know that two and two make four.

Our people are no longer content to send their children to a school which teaches nothing but knowledge of words and of unrelated facts. They ask that their children shall be trained for the duties of private and public life.

The mastership of materials, tools, and industrial processes is educative in a high degree and is far more invigorating to the mind than the masses of details and circumstances that surround some of the literary studies to-day taught in our public schools.

Carlyle sums up the whole subject in these few pregnant words: "Man without tools is nothing: with tools, he is all."

The present educational training furnished in our public schools is, in most cases, entirely inadequate to prepare the child for the duties of life. It divorces head and hand, knowledge and practical skill, and tends to perpetuate the idea that professional life or teaching is more respectable and more worthy of pursuit than labor with the hands. This is the result of providing instruction



primarily suited for a professional career or that of a teacher.

American ideas of education have largely agreed with those of the Chinese, who believe that a sharpening of the intellect by book training is the sole requirement for the development of man.

To many young men and women, exclusive book knowledge is of little real benefit, for it leaves them, at the most critical period of their existence, stranded, without preparation or qualifications to enter any employment by which they could earn a living.

Experience has demonstrated that to half educate a man is to leave him unbalanced. Industrial education is the counterpart of intellectual training, and until the instructions in these two subjects go hand in hand, the pupils in our schools will not receive the equitable, harmonious adjustment of their faculties which will enable them to do their best work in the world.

Training that omits preparation for the practical duties of life is worse than defective—it is absolutely false. Froebel has said, "Man only knows thoroughly that which he is able to produce," and thoroughness in education is the great need in America to-day.

The Massachusetts Commission on Industrial and Technical Education, in their report issued in April, 1906, made the following recommendations, which deserve the most careful consideration,



based as they were on extensive investigation by an able, honest, and patriotic body:

“There seem to be two lines in which industrial education may be developed—through the existing public-school system, and through independent industrial schools. In regard to the former, the Commission recommends that cities and towns so modify the work in the elementary schools as to include for boys and girls instruction and practice in the elements of productive industry, including agriculture and the mechanic and domestic arts, and that this instruction be of such a character as to secure from it the highest culture as well as the highest industrial value; and that the work in the high schools be modified so that instruction in mathematics, the sciences, and drawing shall show the application and use of these subjects in industrial life, with especial reference to local industries, so that the students may see that these subjects are not designed primarily and solely for academic purposes, but that they may be utilized for the purposes of practical life. That is, algebra and geometry should be so taught in the public schools as to show their relations to construction; botany to horticulture and agriculture; chemistry to agriculture, manufactures, and domestic science; and drawing to every form of industry.”

With comparatively few exceptions, the American negro race now are, and in the future must remain, tillers of the soil, carpenters, masons, and bricklayers. Eighty-eight per cent. of the colored

people—men, women and children—are farmers. The land in the South, despite long abuse, is still fertile; yet, on two thirds of the land there is raised but one crop a year. The greatest need of the colored people is manual training,—a knowledge of how to work intelligently and successfully.

“Prior to the war,” writes Ex-Governor Lowry of Mississippi, “there were a large number of negro mechanics in the Southern States; many of them were expert blacksmiths, wheelwrights, wagon-makers, brick-masons, carpenters, plasterers, painters, and shoe-makers.”<sup>1</sup>

In 1863, when the negro was set free, he held practically without a rival the entire field of industrial labor throughout the South. Ninety-five per cent. of all the industrial work of the Southern States was in his hands, and he was fully competent to do it. Nearly every adult was either a skilled laborer or a trained mechanic.

When the old slaves who had been trained as farmhands, mechanics, cooks, and house servants died, their accomplishments departed with them. They had looked upon their skill as a reminder of their slave life, and when freedom came they considered it as of no value to others. Their children, therefore, learned none of the accomplishments of their parents, but they went out

<sup>1</sup> 156 *North American Review*, p. 472.

into the world to obtain education of the kind their parents as slaves never received.

The newly freed slaves desired above everything to dress their children like white children, to send their children to school to learn the subjects taught to white children, and to keep them from working, like white children. As their white masters did not work, they considered it a badge of slavery to have their children work. They endeavored to make gentlemen of their sons, and a gentleman to their notion was a man who dressed in a certain way, was educated in certain subjects, and who lived a life of ease. So the old slaves struggled and worked that their children might be able to live like the sons of their former masters, and the children received false ideas which have never been entirely eradicated.

Thus, for nearly twenty years after the war, the industrial training as given to the negroes by their former masters was almost entirely overlooked. The knowledge imparted to the negro had no bearing on his personal well-being or on what was needful for his self-maintenance, but was of the character of pure ornamentation, which was the prevailing style of education taught in the schools throughout the land.

Colored men and women were educated in literature, mathematics, and the sciences, and no thought was given to the two centuries of slave life on the plantation, and to the actual everyday

necessities of the negroes' life; Greek and Latin were substituted for carpentry and mechanics, and the classics were taught in the place of agriculture. As the teaching of books had been denied to the negro during slavery, it was assumed that the education he most needed was book learning, and an effort was made in schools and colleges to insert into his mind, as by a surgical operation, the culture the white race had gained during the centuries of development.

After several years of experimentation the people of this country began to discern that they were living in a practical age, and that labor was being directed by knowledge, and that it must continue to be so directed still more in the future, and their practical minds were turned to the consideration of the kind of instruction that ought to be given by the schools.

To-day, Hampton Normal and Agricultural Institute, the pioneer organization in this work, Tuskegee Institute, under the management of that prince of the colored race Mr. Booker T. Washington, and some ninety-eight kindred schools, are giving to the negro industrial education, and are gradually changing the ideas of the race with regard to labor with the hands. At these schools, not only is intellectual training provided, but great stress is laid upon the teaching of manual labor in order that the colored artisans may develop into business men and property-owners.



Earnest efforts are being made to find out the kind of skilled labor in which the negro is most likely to find employment and for which he is best fitted, and intelligent instruction is being given so that no one particular branch of labor may fall to the lot of the white man. The pupil is taught the whole of a particular trade in all its branches and the principles underlying it. Work is so divided that the student spends one half of his time in academic studies and one half in the industrial departments. Beginning by emphasizing the dignity of labor and the disgrace of idleness, the instructors in these schools are causing a part of the colored race to understand and to appreciate the value of industrial education; and, realizing its value, the negro parents are beginning to demand that their children be taught to work intelligently. So insistent has become this demand that there are few schools in the Southland where some attempts are not made in this direction.

These schools recognize and appreciate the fact that the negro youth has a life of work before him and that from the beginning of his education all efforts should be directed to teach him how to work intelligently and effectively, so that he may take his place in the world without any difficulty of adjustment. They are endeavoring to carry out Ruskin's idea, that "education is leading human souls to what is best and making what is best out of them."

Industrial education, coupled with intellectual training, would instill this important fact into the minds of the pupils—that there is nothing degrading in hand labor, but, on the contrary, labor in any form is noble and dignified, and that it is as honorable to earn one's living by the use of the spade, the saw, or the machine, as by the use of the pen.

"I feel safe in saying, from the basis of personal experience with the negroes," declares Professor N. S. Shaler, "that somewhere near one third of them are fit to be trained for mechanical employment of a fairly high grade."<sup>1</sup>

The academic discussion of the value of industrial training, so far as the negro is concerned, as well as of the colored man's capacity to receive this education, is now passing into history. Mr. Washington has said with reference to Tuskegee Institute:

"We have sent into the world since 1888 quite six thousand men and women who are doing good, strong, effective work for their fellows and their country. I think I am quite safe in saying that, after a careful inquiry, not more than ten per cent. of those receiving our diplomas or certificates can be found in idleness during any season of the year."

"The records of the South show that 90 per

<sup>1</sup> 57 *Popular Science Monthly*, p. 249.

cent. of the colored persons in prison are without knowledge of trades, and 61 per cent. are illiterate.”<sup>1</sup>

A negro will be a better neighbor if he has learned to be an intelligent farmer, carpenter, or mechanic, and to be industrious, thrifty, and economical, than if he merely scratches the surface of the ground with a hoe and lives in a one-room cabin and borrows, at a ruinous rate of interest, from the neighboring storekeeper, the money on which to live. “Every white man,” to again quote Mr. Washington, “will respect the negro who owns a two-story brick business block in the centre of town and has \$5000 in the bank. When a black man is the largest taxpayer and owns and cultivates the most successful farm in his county, his white neighbors will not object very long to his voting, and to having his vote honestly counted. The black man who is the largest contractor in his town and lives in a two-story brick house is not very liable to be lynched.”

The addition of manual training to the general work of the school does not mean that it would be necessary to erect huge workshops filled with the finest and most expensive machinery, or that the instructors should be the greatest mechanical artists of the age. On the contrary, the instruction the average negro most needs is how to fertilize, to sow, and to reap according to the best standard,

<sup>1</sup> *Journal of Nat. Ed. Assn.*, 1904, p. 132.

which instruction may be imparted by teachers trained in specialized schools and with the aid of a few acres of ground surrounding the school-house. The workshop need only be equipped for teaching the trades of carpentering, bricklaying, blacksmithing, and the art of the wheelwright; and the teachers require but a practical knowledge of these trades.

It must not, however, be the aim of the educators to make the trade school a remunerative institution. Attempts have been made to place trade schools on a commercially paying basis; and the result in every such case has been that the education of the pupil has been sacrificed to the production of salable articles, and in the end the school became bankrupt. The education of the boy should be the sole aim of the school, and the matter of increasing the funds of the school by the sale of the product should have but a minor and secondary place.

"I am entirely convinced," said Dr. Haywood, the first general agent of the Slater fund, "that we cannot make industrial training self-sustaining, without sinking, to a hurtful degree, the educative part of the work in the effort to secure 'profits.' With this view I believe all experienced teachers will agree."<sup>1</sup>

Industrial education for the American negro is

<sup>1</sup> *The Negro Artisan*, 1902, p. 59.



not a panacea for all evils, social, domestic, or personal; it is not the *summum bonum* of education; but it is a valuable educational feature and one which is absolutely indispensable for the full development of the negro.

There have recently been placed fresh obstacles in the path of the Southern negro working man. In the North, by comparison with the large number of white union and non-union men, he is in so small a minority as to be an unimportant industrial factor, yet he is being crowded into an ever narrowing circle of employments. The Commissioner of Immigration has sent his agents into Scotland, Holland, Germany, and Italy to induce emigration to the Southern States; and there is a far-reaching movement for the diversion, from the Northern to Southern points, of a part of the great flood of immigration. With the constantly increasing immigration of the white man to the Southland, and the extension of unionism, with its somewhat unfriendly attitude toward the negro, the members of this race are facing the peril of having their industrial opportunities gradually taken from them.

From the report of a social study of the negro artisan made in 1902 under the direction of the Atlanta University, the following list, showing the attitude of national and international organizations of the several trades toward the negro is taken:

Miners—Welcome negroes in nearly all cases.

Longshoremen—Welcome negroes in nearly all cases.

Cigarmakers—Admit practically all applicants.

Barbers—Admit many, but restrain negroes when possible.

Seamen—Admit many, but prefer whites.

Firemen—Admit many, but prefer whites.

Tobacco workers—Admit many, but prefer whites.

Carriage and wagon workers—Admit some, but do not seek negroes.

Brickmakers—Admit some, but do not seek negroes.

Coopers—Admit some, but do not seek negroes.

Broommakers—Admit some, but do not seek negroes.

Plasterers—Admit freely in the South and a few in the North.

Carpenters—Admit many in the South, almost none in the North.

Masons—Admit many in the South, almost none in the North.

Painters—Admit a few in the South, almost none in the North.

The present constitution of the Knights of Labor admits members "at the option of each local assembly."

The following unions require a majority vote for admission to the locals:

Boot and Shoe Workers	Amalgamated Engineers
Amalgamated Carpenters	Metal Polishers
Bottle Blowers	Stove Mounters
Glass Workers	Bakers
Wood Workers	Barbers

Coopers

Steam Engineers

Stogiemakers

Coal-Hoisting Engineers

The wood workers, coal-hoisting engineers, and coopers require an examining committee in addition.

The following require a two-thirds vote for admission to the locals:

Brotherhood of Car-

Sheet-Metal Workers

penters

Patternmakers

Painters

Tin-Plate Workers

Tile Layers

Broommakers

Flint-Glass Workers.

Iron and Steel Workers

Nearly all these require also the favorable report of an examining committee. Among the iron and steel workers two black balls can make a second election necessary.

The following unions require more than a two-thirds vote for admission:

Electrical Workers, two-thirds vote, plus one, and examination.

Moulders, two-thirds vote, plus one.

Coremakers, two thirds vote, plus one.

Boilermakers, three black balls reject.

Blacksmiths, three black balls reject, two require second election.

Street Railway Employees, three-fourths vote.

Leather Workers (horse goods), three black balls reject.

The following unions openly bar the entrance of the negro to their membership: the engineers,

firemen, telegraphers, carmen, switchmen, trainmen, trackmen, and conductors; the stone-cutters, machinists, electrical workers, boilermakers, and wire-weavers.

If the American negro is to compete with the white working man, his only hope of success is in being able to do his work a little better than his white competitor. Handicapped as he is by his color, his only way of overcoming this misfortune is to make of himself a better workman than his white neighbor, that his racial peculiarities will be overlooked in the work he is able to do.

"The old struggle of the survival of the fittest is beginning in dead earnest," recently declared Senator Benjamin R. Tillman, "and it is not saying too much to predict that the negro must do better or 'move on.'"

To enable the negro to become a skilled workman manual and industrial training are indispensable. To provide schools where he can obtain the training necessary to preserve his present industrial position and to enable him to advance in his chosen work, is one of the most vital steps required to be taken in order that his development may not be retarded and his position as a worker be not taken from him.

It must not be overlooked in considering the economic future of the American negro that every individual, whatever his color, his race, or his creed, makes better the community in which he lives in



just the proportion that he develops the industrial ability to produce and acquire wealth and become a consumer in the community.

(E) MANUAL TRAINING FOR GIRLS.—In this twentieth century in America the mission of woman is twofold: she is a home-maker and a wage-earner. Her time may be devoted exclusively to the home, or it may be employed in earning a living, or the two vocations may simultaneously devolve upon her. Few, if any, women in this country escape the responsibilities of home-making or of wage-earning.

As a home-maker, woman performs the most important function in life. All civic relations begin in the family, and character gets its direction and much of its development in the home. "While the home is generally recognized as the chief seat of happiness, its immeasurable importance as the very cornerstone of civilized life, is seldom thought of," says Mrs. Henry Holt.<sup>1</sup> On the life in the home depends not only the character and worthiness of the present generation, but the springs of the life of future generations find their source in the purity or impurity of the homes of to-day.

As the home life is the most important factor in society-building, the mission of woman as home-maker is the noblest mission in the world. "To the woman," said Henrik Ibsen in the course

<sup>1</sup> *On the Civic Relations*, p. 2.

of an address before a Norwegian society known as the Woman's League, "we must look for the solution of the problem of humanity."

Upon the character, wisdom, industry, and economy of the wife and mother largely depend the health, the character, and the happiness of the members of the family. Practically the entire economic management of the household devolves upon her. On the mother's knowledge or lack of knowledge of household economies, the selection and preparation of foods, the laws of health, of books, and of religion, depends the difference between economy and wastefulness, comfort and discomfort, health and disease, cleanliness and squalor, prosperity and poverty, culture and ignorance, morality and immorality in the household. In the great majority of our American homes, the burden of the earliest moral and religious training of the children and the teaching of the first steps in learning rests almost exclusively upon the mother of the family.

It is in the cradle and in the nursery that the child becomes the father of the man. All other influences combined are less potent, less comprehensive, than the influence of the mother who creates the very atmosphere in which the infant mind develops and in which the child grows until his plastic character has been formed. No truer words have ever been uttered than the old saying that the hand that rocks the cradle rules the world.

Since the education of man begins while he lies helpless in his mother's arms, and since the first steps in the child's education are the most important, as they give direction to his after life, the proper education of the mother as teacher is the most vital problem of education.

Most women possess no knowledge save the ancient customs which have filtered down from generation to generation, and no experience save that gained by experimenting and practising on one's own helpless family, and this during the time when her growing children need the wise care which she alone is able to give them. And each daughter begins her life as home-maker almost as ignorant as was her mother before her.

"How can a child be properly educated by one who has not been properly educated himself!" was the despairing exclamation of Rousseau. The first business of the home is the care of the body. The average child, to-day, is not properly fed and the lack of nutritious food is working havoc with the lives of many Americans.

The mothers of to-day are cooking to gratify the palate instead of faithfully studying and complying with the needs of the stomach; and, as husbands and children are apt to demand the foods which they like rather than those which are nutritious, and as the mothers are ignorant of the laws of physiology, hygiene, and nutritive values and desire primarily to furnish food which is

most pleasing, the consequence must necessarily be unhealthy constitutions.

Mrs. Ellen H. Richards tells us that "the prosperity of a nation depends upon the health and morals of its citizens; and the health and morals of a people depend mainly upon the food they eat, and the homes they live in. Strong men and women cannot be raised on insufficient food; good-tempered, temperate, highly moral men cannot be expected from a race which eats badly cooked food, irritating to the digestive organs and unsatisfying to the appetite. Wholesome and palatable food is the first step in good morals, and is conducive to ability in business, skill in trade, and healthy tone in literature."<sup>1</sup>

Too long has the world been fed on foods prepared by instinct, affection, and duty; and the time has now come for the system of selecting and cooking foods to be based on knowledge, intelligence, and practice. Cooking is an art, a science, a handicraft, a business, and is in no sense intuitional.

"One of the ways in which the worst economy is practised is in the buying of high-priced foods," writes W. C. Atwater, Ph.D. "For this error, prejudice, the palate, and poor cooking are mainly responsible. There is a prevalent but unfounded idea that costly foods, such as the tenderest meats, the finest fish, the highest-priced butter, the choicest flour, and the most delicate vegetables possess some peculiar virtue which is lacking in less expensive materials.

<sup>1</sup> Vol. vi., *Library of Home Economics*, p. 4.



Many people who have small incomes, and really wish to economize, think it beneath them to use the cheaper meats and inexpensive, but substantial, groceries. Many, too, labor under the false impression that the costly food materials are somehow essential and economical. The maxim that 'the best is the cheapest' does not apply to food. The 'best' food, in the sense of that which is the finest in appearance and flavor and is sold at the highest price, is rarely the most economical for people in good health. The food that is best fitted to the real wants of the user may be of the very kind which supplies the most nutriment at the lowest cost."<sup>1</sup>

Nothing tends more to make a home happy than does well-cooked, palatable food; nothing tends more to brighten the lives of a family than cleanliness and order.

Wise temperance workers know that many men drink because they are not properly fed; and that many women consume tea and coffee or adopt the drug habit to make up in stimulants for the lack of nutrition in foods about which they have no knowledge.

The young man or woman who has had good home influence shows that advantage all through life. The knowledge a child consciously or unconsciously gains in the early years remains indelible, ineradicable. Many an eminent man has admitted

<sup>1</sup> "Food and Diet," *Yearbook of the Department of Agriculture*, 1894.

like John Quincy Adams, "All that I am my mother made me," and like Abraham Lincoln, "All that I am or hope to be I owe to my angel mother." Very true is the old Spanish proverb "An ounce of mother is worth a pound of clergy."

Miss Catherine Beecher, in writing of "the deplorable sufferings of multitudes of young wives and mothers, from the combined influence of poor health, poor domestics, and a defective domestic education," says:

"The measure which, more than any other, would tend to remedy this evil, would be to place domestic economy on an equality with the other sciences in female schools. This should be done because it can be properly and systematically taught (not practically, but as a science), as much so as political economy or moral science, or any other branch of study; because it embraces knowledge which will be needed by young women at all times and in all places; because this science can never be properly taught until it has been made a branch of study; and because this method will secure a dignity and importance in the estimation of young girls, which can never be accorded while they perceive their teachers and parents practically attaching more value to every other department of science than this."

"Few parents," declares Dr. Alfred T. Schofield—and his words deserve most careful attention, "have any idea of the immense value of intelligent physical,

<sup>1</sup> Preface to *A Treatise on Domestic Economy*.

mental and moral training, on the character of which it is not too much to say the future of the child mainly depends. The force of training is far greater than that of heredity.”<sup>1</sup>

A false standard of social life has until recent years prevented woman from engaging in any useful labor, and has unfitted her for teaching her children practical knowledge even in a small degree.

Prior to 1870, industrial training for women was practically unknown. In that year, however, experiments of various kinds were attempted in the systems of education. Drawing was made an integral part of the work of the Boston public schools; the Michigan and Illinois Industrial Universities were opened to women, and sewing was introduced into some of the schools of the Eastern States. Since that time technical schools, land grant colleges, cooking schools, industrial classes, and art schools have been established and departments of House Economies are being organized in many of the best educational institutions.

The Secretary of Agriculture in his report of June 30, 1907, says:

“Among the educational movements which in recent years have engaged the attention of the public none has been received with greater favor than the attempt to introduce into schools for girls and wo-

<sup>1</sup> *The Home Life in Order*, p. 223.

men some systematic teaching of the arts which are practised in the home. Many of the colleges of agriculture and mechanic arts, together with scientific, technical, and industrial schools, now maintain a department of domestic science. Cooking and sewing are quite commonly taught in the public schools, and cooking schools for women have been organized in numerous places. While useful instruction in these lines is imparted, it is generally recognized that much remains to be done before the teaching of domestic science can assume its most effective form.”<sup>1</sup>

The preparation for wage-earning in no way incapacitates a woman for the performance of the duties in the home; it does not lessen the grace or refinement of her nature; but on the contrary, such preparation is of almost incalculable value to her as a home-maker and a teacher of her children.

Manual training for negro girls is as essential as it is for negro boys. It is not only of supreme importance to the individual, but it is vitally necessary to the upward development of the race.

The practical instruction in domestic economy which was given to colored girls in all Southern homes prior to the Civil War has now ceased. No more are negro children brought up in and about the homes of the white. The young negro girls have no association with white women, such as their mothers enjoyed when they formed

<sup>1</sup> *Yearbook*, Department of Agriculture, June 30, 1907.



a part of every Southern household. To-day they are barred from white companionship and from the refining influence of the home life of white people.

Like their brothers, the negro girls mistook the significance of emancipation and looked upon freedom as meaning cessation from work. They at once gave up the loom and the distaff, turned from the kitchen and the dairy, and endeavored to copy the lives of their former white mistresses by doing no work. This idea of idleness was fostered by the old "mammies" who wished their daughters to live like "white ladies," and has not disappeared during these forty years of freedom.

Negro girls, in larger numbers than boys, have attended the public schools, but have learned little besides literary subjects—the ornaments of the mind. They have studied the dead languages and have failed to learn the simplest rules in domestic science.

"How long," said Mr. Washington, "has my heart been made to sink as I have gone through the South and into the homes of the people, and have found women who could converse intelligently on Grecian history, who had studied geometry, who could analyze the most complex sentences, and yet could not analyze the poorly cooked and still more poorly served cornbread and fat meat which they and their families were eating three times a day. It is little

trouble to find girls who can locate Peking or the Desert of Sahara on an artificial globe, but seldom can you find one who can locate on an actual dinner-table the proper place for the carving knife and fork or the meat and vegetables.”<sup>1</sup>

The condition of home life among the Southern negroes is deplorable. A majority of their homes consist of a one-room cabin in which are indiscriminately huddled the old and young of the family and occasionally a non-relative. Their food consists of but two or three varieties, and cooking means little more than a thorough warming. The noonday sun seldom finds the floors swept, the dishes washed, and the cabin put in order. Sanitary laws are unknown and sickness abounds. Dirt, slovenliness, and non-nutritious food breed illnesses which might be prevented by a little knowledge of domestic economy and the spread of which could be checked by cleanliness and wholesome food.

The children are brought up amid uncleanly and unsanitary conditions and without the moral training so essential to their healthful and proper development.

The modern negro woman has had no object lesson in morality or modesty from association with white women, and there has grown up a barrier between the women of the white and

<sup>1</sup> *Tuskegee*, by Max B. Thrasher, p. 97.

negro races which has had the appalling effect of causing the negro woman to sink backward into lower stages of life. She needs help, help from her own people, as she will look in no other direction for examples or for inspiration.

From the time of leaving school, most negro girls are compelled to earn a living for themselves, and marriage to them means but a transfer of the place of work—from the home or shop of her employer to the home of her husband.

Above all other assistance, the negro girl needs education in those subjects which will enable her to take her place in the world as wage-earner and as home-maker. To-day, in many of the industrial schools of the South, instruction is given with these ends in view. At Tuskegee, about one third of the students are young women. In all the subjects in the academic department of this Institute, and in the industrial department, the following subjects, to wit: type-setting, tailoring, caring for the sick, market-gardening, poultry-raising, bee-keeping, horticulture and floriculture, are taught to both men and women; while mat-tressmaking, plain sewing, dressmaking, millinery, cooking, laundry work, and general housekeeping are taught to young women only.

Instruction in these subjects is absolutely essential for the negro girl who is obliged to earn her own living and whose mission in life is to make a home from which a higher standard of

civilization will issue. With hygiene and domestic science substituted for literature and the dead languages, the young negro girl will have the desire, the knowledge, and the will, upon leaving school, and taking up the duties of wife and mother, to change the customary life of her home by insisting upon living in a cabin with more than one room, by having cleanly and healthful surroundings, by selecting and preparing nutritious foods, and by her skill at domestic science, of creating an atmosphere in which the family will grow into healthier, nobler, happier, and better men and women.

(F) RELIGIOUS INFLUENCE.—Religion—man's instinctive belief in a being or power conceived by him to be greater or holier than himself, to whom he owes allegiance, and his recognition of certain obligations arising out of such allegiance, which prompts him to acts of reverence, devotion, or obedience—is as natural to man as is hunger and thirst. It has not been imposed upon him by priests, medicine-men, or hierarchies, nor is it an abnormal growth foreign to his nature. Religion is one of the primary instincts, and is inseparable from the genesis and evolution of the normal nature of man, and has existed under all circumstances and conditions, in all ages and beneath all skies.

“On one main point which has been questioned



respecting existing facts," declares that accurate student of religion and science, the Duke of Argyll, "the progress of inquiry seems to have established beyond any reasonable doubt that no race of men now exists so savage and degraded as to be, or to have been when discovered, wholly destitute of any conceptions of a religious nature. It is now well understood that all the cases in which the existence of such savages has been reported are cases which break down upon more intimate knowledge and more scientific inquiry."<sup>1</sup>

Such is the conclusion arrived at by the careful modern inquirer Professor Tiele, who says:

"The statement that there are nations or tribes which possess no religion, rests either on inaccurate observations or on a confusion of ideas. No tribe or nation has yet been met with destitute of belief in any higher beings, and travellers who asserted their existence have been afterwards refuted by facts. It is legitimate, therefore, to call religion, in its most general sense, an universal phenomenon of humanity."<sup>2</sup>

This fact was recognized by that ancient historian Plutarch who wrote these striking words:

"If you will take the trouble to travel through the world you will find towns and cities without walls, without letters, without kings, without houses, without wealth, without money, without theatres, and

<sup>1</sup> *The Unity of Nature*, pp. 477, 478.

<sup>2</sup> *History of Religion*, p. 6.

places of exercise, but there was never seen by any man any city without temple or gods."

Religion has ever been and will never cease to be an indispensable and permanent condition of the life of a rational man. "Man is incurably religious," wisely declared Sabatier. Individual experience through the centuries has illustrated the great truth embodied in the words of Saint Augustine, "Thou has made us for Thyself, and our hearts are restless until they find rest in Thee."

Goethe, in speaking of the religious instinct in man, said that it is "the deepest, nay, the one theme of the world's history to which all others are subordinate."

Therefore, it is safe to agree with Herbert Spencer that "religion, everywhere present as a web running through the warp of human society, expresses some eternal fact"<sup>1</sup>; and with Count Tolstoi, who has declared:

"No society of men since men have been rational beings could ever live, and therefore never did live and cannot live, without religion."<sup>2</sup>

Religion lies at the root of society and has ever been the strongest factor in society-building. The efforts of primitive man to change the existing order may, in nearly all instances, be traced to his religious belief. The well-established

<sup>1</sup> *First Principles*, p. 20, chap. i., "Religion and Science."

<sup>2</sup> *What is Religion?* p. 8.

customs of primitive society were all founded on religion. Marriage owes its existence to religion; home, its sanctity; while in upholding the central authority of the head of the family, social order was evolved.

Religion was the fountain-head of the ancient arts. Literature was invented by and developed through the attempts of the primitive races to preserve the prayers and songs addressed to their gods; sculpture had its birth in their efforts to make visible the forms of their deities; architecture resulted from their desire to symbolize their faith in permanent form and to house and glorify their sculptured gods; and the dance was the formal outcome of their methods of expressing religious ecstasies.

Religion gave to man an ideal; it pointed out to him something toward which he might direct his energies, a goal which, by striving for, he might possibly reach. By clothing his god with human attributes, man, in the earliest stages of society, found that by imitation he might become like to his god; and by serving his god he learned to serve his brother, which service is the basic lesson of progressive growth.

Herbert Spencer, the apostle of negation, in his autobiography frankly states in regard to religion:

“Many have, I believe, recognized the fact that a cult of some sort, with its social embodiment, is a

constituent in every society which has made any progress, and this has led to the conclusion that the control exercised over men's conduct by theological beliefs and priestly agency has been indispensable. The masses of evidence classified and arranged in the *Descriptive Sociology* have forced this belief upon me independently; if not against my will, still without any desire to entertain it. So conspicuous are the proofs that among unallied races, in different parts of the globe, progress in civilization has gone along with development of a religious system, absolute in its dogmas and terrible in its threatened penalties, administered by a powerful priesthood, that there seems no escape from the inference that the maintenance of social subordination has peremptorily required the aid of some such agency."

The experience of mankind and the history of nations have clearly demonstrated that irreligion is the sure precursor of social decay and ruin. A godless community is doomed, for it soon becomes the chosen home of vice and crime. The history of the world contains many epitaphs written large over the ruins of cities and nations which excluded religion from their civic and national life.

"No state," says Walter, "can subsist without religion, which fills and interpenetrates every sphere of life with the sense of the obligation of duty. Religion, which respects and maintains every right of high and low, of strong and weak, is the conservative element of society. . . . By the strength of character which she forms, she preserves the youth of nations,



and, when they fall away and decay, keeps them from the withering up of mind and heart. Religion is the groundwork of family life, and of the purity and piety nurtured therein. . . . She brings rich and poor nearer together, urging upon the rich sympathy and active help to the poor, and instilling into the poor gratitude and consolation. Thus she softens every condition of life, and teaches man that he can be elevated and ennobled by submission. Religion, then, is the true bond which holds the state together, makes it strong, and saves it from degeneracy.”<sup>1</sup>

The present civilization in the United States rests upon the religious ideas of former generations, and the civilization of the future depends upon a due recognition of the principles of religion as the guiding motives in the development of the race and as underlying and permeating all helpful knowledge.

The people of the United States have formally declared that the American government is founded on a belief in a God and that its existence is maintained through the grace of the Almighty. Thirty-one State constitutions use in their preamble the phrase “grateful to Almighty God.” Virginia, Louisiana, and Texas have in their constitutions the words “invoking the favor and guidance”—or “the blessing”—“of Almighty God.” All of the constitutions, Federal and State, with the exception of Michigan and West Virginia,

<sup>1</sup> *Naturrecht und Politik*, p. 237, Boner, 1871.

contain the name of God in some place, and in the constitutions of these states the freedom of conscience and of worship is emphatically decreed.

Twenty-six States declare that it is the privilege of "every man to worship God according to the dictates of his own conscience"; eleven say that "the free enjoyment of religious sentiments and forms of worship shall ever be held sacred"; five assert that it is the "duty of the legislature to pass laws for the protection of religious freedom." Nineteen declare that "no human authority ought to control, or interfere with, the rights of conscience"; while nine ordain that "no person may be molested in person or estate on account of religion."

In five States—Arkansas, Mississippi, Texas, and the two Carolinas—no person can hold office "who denies the being of Almighty God or the existence of a Supreme Being"; Pennsylvania and Tennessee restrict office-holding to such as "believe in God and in a future state of reward and punishment"; Maryland requires this belief in a juror and witness, but in the office-holder demands only a belief in God.

Presidents and governors in official documents recognize the dependence of the nation on God and the duty of gratitude to Him; the national and State legislatures are opened with prayer; a day of thanksgiving to God is set apart annually by the President and the governors of the several

States, while special days are occasionally designated by the executives for religious observances; and the courts in nearly all the States have decided that we are a Christian people.

Mr. Justice Story, in his inaugural address as Dane professor in 1829, said:

“There never has been a period in which the common law did not recognize Christianity as lying at its foundations. It repudiates every act done in violation of its duties of perfect obligation. It pronounces illegal every contract offensive to its morals. . . . The error of our government, it has been asserted, is in reality of a different character: it tolerates nothing but Christianity.”

The common law was adopted as the basic law of every State in the Union with the exception of Louisiana.

Chief Justice George Shea, of the Marine Court of the City of New York, in quoting the above words of Justice Story, declared:

“Story might have added to his enumeration that laws in pursuance of the spirit of the Constitution prohibit, under penalties, the name of God being publicly blasphemously uttered, and will not allow the name of God to be wantonly or openly reviled to the annoyance of believers and bad example to the public. The sacredity of the Lord’s Day is acknowledged, and contracts made on that day are invalidated. The conscience of each public servant

is bound by 'that adamantine chain, an oath,' to the throne of God, in the legislative, the judicial, the executive departments, from the President of the United States, from the Chief Justice of the United States, down to the humblest officer in the nation, State, municipality, or village. The Constitution expresses in these visible signs the substantial idea; it makes the reality of its Christian character; and it finally and affirmatively declares in express terms that the enactments which compose the Constitution were 'done . . . in the year of our Lord 1787.' It was the deliberate issue of religious traditions, circumstances, convictions, and acknowledgments."<sup>1</sup>

So firmly are the people of the United States convinced of the necessity of the church as a social institution that they exempt church property from taxation.

De Tocqueville, that close and accurate student of American affairs, has said, "I am certain that Americans hold religion to be indispensable to the maintenance of republican institutions."

The religious instinct in the negro race is so deep-seated, and so powerful as a guiding force in their life, that this fact cannot be lightly passed over in considering the social development of this people.

The religious instinct in the American negro has developed into a system of superstitious

<sup>1</sup> *The Nature and Form of the American Government*, pp. 60-64.



beliefs which color his thoughts and guide his acts, and which have become the most marked characteristic of the race. It has proved in the past but a minor factor in their development and is to-day retarding rather than helping their upward growth. Ignorance and the teachings of slavery are the causes of the perversion of the tendencies of this native faculty.

In their childish way, the negroes long for and relish the supernatural; they love the worship of God and their hearts burn for more knowledge of religious truths.

It must not be forgotten that superstition is but the lowest form of religion and that the Christian, Judaic, Mohammedan, Confucian, Buddhist, Braham, and Hindoo sects but represent different intellectual strata in the development of religion. The superstitious negro is but an uneducated being who is capable by teaching of becoming a worthy member of any religious body. To-day, he may be groping blindly in the darkness in search of an unknown God, but to-morrow he is capable of emerging into the light and having his feet placed firmly on the way which leads to the highest conception of Almighty God.

*Religious Education.*—"The great problem of life is education," declares Professor Gates, of the Chicago Theological Seminary. "The mind of the race is growing all the while, and it is for the educator to see that these mental powers are developed in the right

direction. But no man's education is complete if religious instruction be omitted. One may know all mysteries of science and literature; he may sweep the heavens with the telescope, or peer into the secrets of nature with the microscope; but if in all this he sees not God, he is but poorly educated after all."<sup>1</sup>

This statement of the vital necessity of religious truths being taught to every human being is to-day assented to by the great body of intelligent Americans with the exception of the comparatively few atheists, agnostics, and pure socialists, and that class of religionists who hold that the principles of morality can be inculcated without the teaching of religion. Books have been written and sermons preached with the two-fold object of inducing the American people to inscribe over the portals of our common schools the words "Leave Religion behind, all ye who enter here," and of insisting that the teaching of morality be commingled with the lessons in secular studies. The position dictatorially taken that secular education should include the teaching of morality, and that religion should be excluded from the school curriculum, at once raises the question as to whether morality and religion can exist independently of each other.

Through the ages, philosophers in their secluded libraries, far away from contact with the reali-

<sup>1</sup> *Biblical World*, Sept., 1902.

ties of temptation, have propounded theories of righteousness upon which they have attempted to build systems of morality. Their treatises have attracted attention, and some few have endeavored to live by their precepts, but ere long their theories as guiding forces passed out of the minds of men, and are to-day relegated to the curio cabinets in which are collected the unworkable formulas for the regulation of life.

If men and women were without passions, without inherited tendencies to vice, and were living in a pure atmosphere away from temptation to do wrong, they might be taught to be good because to be good is right and proper and would insure human happiness. But as men and women are constituted with evil tendencies and inclinations, and are living in a world in which temptations to depart from pure and honest living are hourly besetting them, it is idle to expect that they will do right unless they believe in a God who rewards for the keeping and punishes for the violation of moral laws.

Mere knowledge of what is right and what is wrong will never cause the doing of the right and the forsaking of those things which are wrong. Judas Iscariot knew the evil of treason, but he betrayed his Master. Some of the world's most noted criminals have talked glibly of the principles of morality and of the ethics of right doing. Morality to be effectual

must be governed by the will, and back of the will must lie a motive sufficiently powerful to force the will to definite action.

Force from without may at times restrain the will from carrying out its resolves, but it cannot control the motives of the inner life which are the sources of human morality. Decrees of legislators, edicts of monarchs, commands of parents, and bayonets of armies never have and never can create a system of morals.

“And what motives can the teacher of abstract morality propose, if he prescind entirely from religion?” asked Rev. Francis Cassilly at the Conference on Religious Education in 1905. “He can tell the young man that stealing is wrong, that it is in bad form, that it is against the laws of his country; but what if the young man says that the possession of the stolen money is dearer to him than the approbation of his conscience, more than the esteem of his fellow-men, and that as to the laws of his country he will trust to his own shrewdness and to the cleverness of good lawyers to keep him out of prison? That is about as far as the teacher of simple morality can go. If he insists further that there is an obligation and a duty to keep from stealing, because God who is the Creator and Master of us all has forbidden it, and that if we disobey Him we shall incur His wrath in this world, and punishment in the next; if the teacher goes farther still and insists that God is our loving Father, who gives us every good blessing, that He loves His good children who obey his commands, and



that He is wounded when we disregard them, that He will love and bless us in this world if we do His will, and that He will give us the delights of endless bliss in the next, why, the teacher certainly proposes efficacious motives, which are sufficient to hold a man in check under the direst temptations and on the most secret occasions, but is he confining himself to teaching morality? Is such a teacher not inculcating religion? He is assuredly basing his teaching on religious dogmas. He asserts that God exists, that He is the creator and father of the world, that He will reward the good and punish the wicked after death. Are not all these dogmas? And is not the inculcating of these dogmas religious teaching? In other words, to endeavor to teach morality without giving strong and sufficient motives is impossible, and strong and sufficient motives can be obtained only from the arsenal of religion."<sup>1</sup>

When the will has been clothed with righteousness and goodness, the life will reveal it in right and good deeds; when the will is depraved, the intellect will be guided into evil paths. Reason enlightens the will, but religion lights the fires that drive the will to act toward pure and noble ends.

"Morality and religion are inseparable," said Orestes A. Bronson, "for morality is only the practical application in the several departments of life of the principles of religion. Without religion, morality has no foundation, nothing on which to rest, is a baseless

<sup>1</sup> *Conference Proceedings*, Urbana, 1906, p. 17.

fabric, an unreality. Deny God, and you deny the moral law and the whole moral order, all right, all duty, all human accountability.”<sup>1</sup>

President Eliot of Harvard has said: “No educational system can be successfully carried on without education in morals, and no education in morals is possible without a religious life<sup>2</sup>”; while Mr. Frederick Harrison has written, “Morality apart from religion is a rattling of dry bones.”<sup>3</sup>

George Washington, in his Farewell Address, spoke the words, which will go ringing down the years weighted with their mighty truths:

“Of all the dispositions and habits which lead to political prosperity, religion and morality are indispensable supports. . . . Let us with caution indulge the supposition that morality can be maintained without religion. Whatever may be conceded to the influence of refined education on minds of peculiar structure, reason and experience both forbid us to expect that national morality can prevail in exclusion of religious principles.”

Well did the great Duke of Wellington understand and appreciate this fact, as is evidenced by his remarks on the proposed Education Act in December, 1840, when he exclaimed, “Take care what you are about, for unless you base all

<sup>1</sup> *Works*, vol. xiii., p. 309.

<sup>2</sup> *Outlook*, January, 1898.

<sup>3</sup> *Forum*, December, 1891.

this education on religion, you are only bringing up so many clever devils!"

"Mere culture of the intellect," said Herbert Spencer, "(and education as usually conducted amounts to little more) is hardly at all operative upon conduct. . . . Intellect is not a power but an instrument—not a thing which itself moves and works, but a thing which is moved and worked by forces behind it. To say that men are ruled by reason is as irrational as to say that men are ruled by their eyes. Reason is an eye—the eye through which the desires see their way to gratification. And educating it only makes it a better eye—gives it a vision more accurate and more comprehensive—does not at all alter the desires subserved by it. However far-seeing you make it, the passions will still determine the directions in which it shall be turned—the objects on which it shall dwell. Just those ends which the instincts and sentiments propose, will the intellect be employed to accomplish; culture of it having done nothing but increase the ability to accomplish them. . . . Did much knowledge and piercing intelligence suffice to make men good, then Bacon should have been honest, and Napoleon should have been just."<sup>1</sup>

In the early history of the American colonies, mental and moral training were combined in nearly all the colleges as well as in all the schools for primary instruction. The books and studies from the primer to the commencement exercises

<sup>1</sup> *Social Statics*, pp. 173-174.

at the colleges were arranged with the conviction that the acquisition of knowledge and the teaching of religion could never be separated.

At the Constitutional Convention, at which unified action was required of the delegates, it was found that the conflicting theological opinions of the colonists could not be reconciled, and the educational problem was ultimately solved by the exclusion of religious studies from all government schools.

To-day, all instruction in public educational institutions is secular and only the material forces and facts are taught the students. The character of the public education furnished has no power to restrain the evil passions or the natural propensities to wrong-doing, and the graduates of the government schools are sent out into the world unprepared to grapple with the workings of their inherent tendencies.

The mere accumulation of knowledge cannot make an individual or a society better morally. Education of the mind is of immense value, as it enables the individual to distinguish right from wrong. But mental education is not a shield against immorality, nor a preventive of crime, nor a cure for cupidity.

Pedagogy means "the guiding of children"; and in order to guide them properly it is necessary to know the goal to be reached. The true end of education is the harmonious development



of the whole man, the moral and spiritual as well as the physical and mental powers. To neglect any one part is to leave the work imperfect and men and women undeveloped and incomplete.

Since education is the means by which the powers of a child are developed, and since the child possesses a religious nature, it is imperative that religious instruction be given if the true end of education is to be reached and the child brought into the fulness of his powers.

If religion comprised merely a set of crystallized dogmas to be studied in the same manner as the alphabet and geography, and had no application to life; if a knowledge of religion was required for priests and ministers only and used solely by experts as in the cases of law and medicine; if religion was to be translated into life only on Sundays and on special days set apart for its observance, then the teaching of religion would have no place in the general education of the young and it would properly be taught only in elective courses in the higher institutions of learning and in theological seminaries; but, as all history, all philosophy, and all literature is shot through with religion it should rightly have an important place in every school and college in our land.

"I do not believe that improvement is to be sought by substituting religious instruction for secular instruction, or by superadding one to the other as though

the two were separate," says Dr. Arthur Twining Hadley. "I do not believe that you can prepare a man for citizenship by teaching a godless knowledge in one part of the school time and a set of religious principles in another part; any more than you can prepare a man for heaven by letting him cheat six days of the week and having him listen to the most orthodox doctrines on the seventh. I believe that both in school life and in after life the moral training and the secular training must be so interwoven that each becomes a part of the other."<sup>1</sup>

Dr. William T. Harris, United States Commissioner of Education, in an address before the National Educational Association in July, 1903, said that the principle of secular education is demonstration and verification, and that a mind trained to demonstration and verification "is necessarily hostile and sceptical in its attitude towards religious truths," and, therefore, he urges "the separation of the church from schools supported by public taxes."

If a child, at an age when its mind is most receptive and retentive of mental impressions, is subjected for five days in the week to a training which cultivates an attitude that "is necessarily hostile and sceptical in its attitude towards religious truths," and on one day in the week is taught religious truths, it is reasonable to assume that the child will eventually become irreligious, if not atheistic.

<sup>1</sup> *Baccalaureate Addresses*, p. 194.

If the teaching of the public school "is necessarily hostile and sceptical in its attitude towards religious truths," then the school is working against the church. And when the school occupies five times as much of the thought of the child as does the church, religion will have no place in his life.

If the United States Commissioner of Education has rightly interpreted the effect of public school education on the minds of scholars, his interpretation is the severest indictment that could be uttered against the system of instruction now provided.

But the teaching of the facts of life has never stunted the mind of the child so that it lost its natural inquisitiveness and its innate desire to know the nature of the forces which have brought the facts into existence. The awakening of the mind to a knowledge of the social, political, and economic forces which rule the world has always had the effect of stimulating a desire to know their origin, nature, and development. And as religion has been the great developmental force in the world, and has vitally affected all other forces and conditions, the study of religion at the same time the secular studies are prosecuted would have a tendency to throw such illumination upon the dry facts of life that it would add immeasurably to the interest the student would find in his work.

But it is said that the common schools are not irreligious, but non-religious. No clearer or more



illuminating discussion of this subject has been written than the words of Brother Asarias:

“Religion is not a garment to be donned or doffed at will. It is not something to be folded away carefully as being too precious for daily use. It is rather something to be so woven into the warp and woof of thought and conduct and character, into one’s very life, that it becomes a second nature and the guiding principle of all one’s actions. Can this be effected by banishing religion from the school-room? Make religion cease to be one with the child’s thoughts and words and acts—one with his very nature—at a time when the child’s inquisitiveness and intellectual activity are at their highest pitch; cause the child to dispense with all consciousness of the Divine Source of light and truth in his thinking; eliminate from your text-books in history, in literature, in philosophy, the conception of God’s providence, of His ways and workings, and you place the child in the way to forget, to ignore, or mayhap deny that there is such a being as God and that His providence is a reality. The child is frequently more logical than the man. If the thought of God, the sense of God’s intimate presence everywhere, the holy name of Jesus be eliminated from the child’s consciousness and be forbidden his tongue to utter with reverence in prayer during school hours, why may not these things be eliminated outside of school hours? Why may they not be eliminated altogether? So may the child reason; so has the child reasoned.”<sup>1</sup>

<sup>1</sup> *Essays Miscellaneous*, “Religion in Education,” pp. 70-71.



"Can we hope to build up a God-fearing people, a people fit to be trusted with domestic management and guardianship of the commonwealth, if they are trained up with the conviction that religion, the only basis of morality, is a proscribed and outlawed thing during the best and highest hours of the day, through the tenderest and most impressionable years of life?"

pertinently asked very Rev. A. P. Doyle in his address on "How can Christian ideals be made dominant in a commercial era?"<sup>1</sup>

"It is all idle, it is a mockery and an insult to common sense," said Daniel Webster in his argument on the Girard College case, "to maintain that a school for the instruction of youth, from which Christian instruction by Christian teachers is sedulously and vigorously shut out, is not deistical and infidel in its purpose and its tendency."

It has been suggested that it is safe and sufficient to trust the Sunday-schools and similar meetings on Sunday to furnish to children the religious instruction needed to mould their lives. The utter inadequacy of such religious training is plainly apparent when we consider the limited time devoted to such work during each week and the practical impossibility of obtaining the attendance of the children who most need religious instruction—those who have none to look after

<sup>1</sup> Religious Education Association, Feb. 5-7, 1907.

them and those whose parents are indifferent to the claims of religion.

To trust the busy, the indifferent, and the irreligious parents to instill into the minds and hearts of their children the religious principles which will bear fruitage in honest, upright, moral living, is likewise foolish. If a nation is to advance, each succeeding generation must be wiser and better than the preceding one. And if to the parents is confided the sole religious training of their own children, how can the children be expected to be better than their parents? Additional help must be given, so that proper religious training may be brought to those children whose parents are unwilling or unable to properly teach them.

Professor E. R. Morrison of San Bernadino, California, has written these words:

“That some change in the educational system of the country is imperatively required, seems to be generally admitted. It is an educational system which fails to educate. If our schools are doing their work efficiently, how comes it that our criminal statistics are the most terrible which the world has to show?”<sup>1</sup>

The prevalence of crime in America, however, cannot with justice be laid to the character of the public schools. The fault may be in the homes, in the churches, in the public press, or in the social

<sup>1</sup> *Educational Review*, November, 1897.

or industrial organization, or in all combined. But the contention is here made that the public schools in excluding religion from the secular studies are not furnishing a sufficient check to the development and spread of crime.

For many years after emancipation, the educators of the negro race thought that intellectual brightness was the only thing needed to transform the colored child (for such was the negro in 1863 and such is the mental condition of the great mass of the race to-day) into a well-rounded, valuable citizen. And it was not until General Samuel Chapman Armstrong took up the study of the education of the negro that it was at all realized that, in the words of the General, "Spelling books do not, as a matter of course, make manly fibre, and practical self-restraint is not the immediate result of learning."

As a result of the discovery made by General Armstrong, it slowly began to dawn upon the thoughtful minds in the South that character and conduct are in reality the primary objects of education. From that time onward a new method of education was introduced into a few of the private schools, and in its limited application has brought forth results gratifying beyond measure.

Without character, all the knowledge that the schools can impart would be of but little value to

man, white or colored. The business of educators is to form character, to make men. To educate the conscience, the basis and mainspring of character, there must be implanted in the human mind and developed in the human life the fundamental principles of society, the doctrines of morality, and the truths of the highest conception of religion.

The common schools and the colleges of the class of Harvard, Yale, Princeton, and Cornell, which admit the negro to their class-rooms, do some good for the colored race. But as such institutions do nothing but train the intellect, they are not furnishing the kind of education needed to solve the negro problem.

It is at such schools and colleges as Atlanta, Fisk, Leland, Clark, Wilberforce, Shaw, and Howard Universities, Mehany Medical College, Spelman Seminary, and Hampton and Tuskegee Institutes, where the development of character is the chief work of instruction, that is to be found the education most required. At these institutions the negro is taught his responsibility to God, and is made to realize that he has been placed on earth to live as a child of God by developing himself physically, intellectually, morally, and spiritually, so as to be able to teach his fellows how to live the best and the fullest life.

There is no conflict in the work done by these several institutions; "indeed," declares Dr. Du Bois, "all who are working for the uplifting of the



American negro have little need of disagreement if they but remember this fundamental and unchangeable truth: that the object of education is not to make men carpenters, but to make carpenters men."

*Churches*—The mission of all churches in America is to teach men and women how to live the fullest and most complete life and thereby to bring about the kingdom of God on earth.

As teacher, the church should come into daily contact with her charges, if she is to do her work properly and well. The difference in the effect of occasional or intermittent teaching and regular and systematic teaching of the young by religious bodies is well illustrated in the results of the work of Protestant and Catholic churches in America to-day.

The loosening of the hold of the Protestant churches upon men and women and the lack of religious principles and the indifference to the claims of religion on the part of Protestants are so pronounced that this deplorable condition is constantly commented on in newspapers, in magazines and in the books of the day. The main reason for the growth of irreligion among the members of the Protestant churches is to be found in the fact that it is only on one day in seven in which they can exercise their authority as teacher and guide. From Sunday to Sunday they keep aloof from their

members and permit the world to neutralize or supersede their influence.

By way of contrast, the Catholic Church is holding her members with a firm hand, primarily because of her watchful care over the children. She believes in the old saw attributed to King Solomon that "as the twig is bent the tree's inclined," and exercises the utmost diligence in seeing that, while the child is growing physically and mentally, his religious and moral development keeps pace with his bodily and mental growth. She insists that her children be educated in schools where religious and secular instruction are blended and where the child is taught the inseparableness of education, religion, and life. Only by means of church schools does she believe it possible to prevent the children from drifting into the condition of infidelity and immorality for which the present godless public school system of education is in a large measure responsible.

"The church greatly needs the school," declares Samuel T. Dutton, Superintendent of Schools, Brookline, Mass. "I doubt if it could exist without it. The Christian fathers of early times evidently thought so, because every church had its school, and in this country . . . the church would fare but poorly unless the school did its saving work. The very foundations of character upon which the church has to build are laid in the school, and, considering how the shaping of life depends upon early nurture,

the school seems to stand first as an influential means of Christian training."<sup>1</sup>

As the public schools are irreligious in character, in that they banish religion from the studies taught, and thereby impliedly belittle in the child's mind the importance of religious truths, the Protestant churches have but weak allies in their work of developing character.

It is not to be expected that children will care anything for moral character if for five days in the week they are taught all about mathematics, geography, spelling, reading, literature, and the sciences, but nothing about morality. They are logical enough to conclude that the subjects they are taught in school are the most important things in life, and that those left untaught are of no particular value. And when religious instruction is limited to an hour or two on Sunday, it is no wonder that the children grow up to think that religion is but an ornamentation of the mind to be used only on the Sabbath. Every attempt to preserve something as especially sacred by setting it apart from the rest of life has always resulted in its being left apart and out of vital contact with life.

Without the assistance of the schools, the churches are almost impotent in their work; with the schools as allies, their power would be unmeasurable.

<sup>1</sup> *Social Phases of Education*, p. 192.



The two centuries of American slave trade had destroyed the tribal life of the African coast negroes and had brought about the mingling of clans and of religious beliefs which resulted in a chaos of religious ideas. At the beginning of the nineteenth century the African negroes' religion had degenerated into animal-worship, fetichism, and a belief in sorcery and witchcraft.

The negroes which were brought to America were possessed with a strong tendency to nature-worship and with a firm belief in witchcraft. These pagan beliefs were allowed to grow practically unchecked and unmodified, because of the widespread idea that it was contrary to law to hold Christians as slaves, and the masters were more attached to their property than they were interested in the spread of the gospel in which they professed to believe.

So prevalent was this idea throughout the colonies, that New York in 1706 passed the following act:

"Whereas, Divers of her Majesty's good subjects, inhabitants of this colony, now are, and have been willing that such Negroes, Indian and Mulatto slaves, who belong to them, and desire the same, should be baptized, but are deterred and hindered therefrom by reason of a groundless opinion that hath spread itself in this Colony, that by the baptizing of such Negro, Indian or Mulatto slaves, they would become free, and ought to be set at liberty. In order, there-



fore, to put an end to all such doubts and scruples as have, or hereafter any time may arise about the same:

“Be it enacted, etc., That the baptizing of a Negro, Indian, or Mulatto slave shall not be any cause or reason for the setting them or any of them, at liberty.”<sup>1</sup>

Other colonies followed the example of New York by declaring that the Christian baptism of the negro had no effect on the master's right and title to own and hold him as slave and chattel. The result of these acts was that a large number of slaves applied for admission into the Christian Church. So great became the number of negro Christians that the question arose as to whether it would be wiser to allow the master and slave to worship in the same church, or to permit the slaves to have churches of their own. Both plans were adopted. Soon, however, the masters began to fear the effect of the regular meeting of slaves, and in 1715 North Carolina passed an act which declared:

“That if any master or owner of Negroes or slaves, or any other person or persons whatsoever in the government, shall permit or suffer any Negro or Negroes to build on their, or either of their, lands, or any part thereof, any house under pretense of a meeting-house upon account of worship, or upon any

<sup>1</sup> Geo. W. Williams, *History of the Negro Race in America*, vol. 1., p. 141.

pretense whatsoever, and shall not suppress or hinder them, he, she, or they so offending, shall for every default, forfeit and pay fifty pounds, one-half toward defraying the contingent charges of the government, and the other to him or them that shall sue for the same."<sup>1</sup>

Maryland, Georgia and other colonies followed the example of North Carolina, until it became true, as Brackett says, that "any privileges of church-going which slaves might enjoy depended much, as with children, on the disposition of the masters."

In 1831, Virginia declared that neither slaves nor free negroes might preach, nor, without permission, attend religious services at night. In North Carolina slaves and free negroes were forbidden to preach, exhort, or teach "in any prayer-meeting or other association for worship where slaves of different families are collected together," on penalty of not more than thirty-nine lashes. Maryland and Georgia had similar laws. The Mississippi law of 1831 read: "It is unlawful for any free negro or mulatto to preach the gospel" upon pain of receiving thirty-nine lashes upon the naked back of the presumptuous preacher. If a negro received written permission from his master he might preach to the negroes in his immediate neighborhood, providing six respectable white men, owners of slaves, were

<sup>1</sup> *Laws of 1715*, Ch. 46, Sec. 18. Bassett, *Colony*, p. 50.

present. In Alabama the law of 1832 prohibited the assembling of more than five male slaves at any place off the plantation to which they belonged, but nothing in the act was to be considered as forbidding attendance at places of public worship held by white persons. No slave or free person of color was permitted to "preach, exhort, or harangue any slave or slaves, or free persons of color, except in the presence of five respectable slaveholders or unless the person preaching was licensed by some regular body of professing Christians in the neighborhood, to whose society or church the negroes addressed properly belonged."<sup>1</sup>

The Presbyterian Synod of South Carolina and Georgia declared in 1833:

"There are over two millions of human beings in the condition of heathen and some of them in a worse condition. They may be justly considered the heathen of this country, and will bear a comparison with heathen in any country in the world. The negroes are destitute of the gospel, and ever will be under the the present state of things. In the vast field extending from an entire State beyond the Potomac [*i.e.*, Maryland] to the Sabine River [at the time our southwestern boundary] and from the Atlantic to the Ohio, there are, to the best of our knowledge, not twelve men exclusively devoted to the religious instruction of the negroes. In the present state of feeling in the

<sup>1</sup> *The Negro Church*, edited by W. E. B. Du Bois, p. 25.



South, a ministry of their own color could neither be obtained nor tolerated.

"But do not the negroes have access to the gospel through the stated ministry of the whites? We answer, no. The negroes have no regular and efficient ministry; as a matter of course, no churches; neither is there sufficient room in the white churches for their accommodation. We know of but five churches in the slave-holding States built expressly for their use. These are all in the State of Georgia. We may now inquire whether they enjoy the privileges of the gospel in their own houses, and on our plantations? Again we return a negative answer. They have no Bibles to read by their own firesides. They have no family altars; and when in affliction, sickness, or death, they have no minister to address to them the consolations of the gospel, nor to bury them with appropriate services."

But, despite law and oppression, in 1859 there were 468,000 negro church members reported in the South.<sup>1</sup>

One of the first results of the Civil War was the expulsion of negroes from white churches. The Methodist Church South set its Negro members bodily out of doors; the Baptists and the Episcopalians, through persistent neglect and harassment, gradually induced the black communicants to leave their churches. To-day, there can be found throughout the South hardly a single negro member of any white church.

<sup>1</sup> *Ingleside Lights*, p. 273.



## 310 Vital American Problems

In 1903, the membership of negro church bodies in the United States, not including foreign mission membership, was as follows:

Denominations.	Ministers.	Churches.	Membership.
Baptists.....	10,720	15,614	1,625,330
Union American Methodists.....	180	205	16,500
African Methodists.....	6,500	5,800	785,000
African Union Methodist Protestants.....	68	68	2,930
African Zion Methodists...	3,386	3,042	551,591
Congregational Methodists.	5	5	319
Colored Methodists.....	2,159	1,497	207,723
Cumberland Presbyterians.	450	400	39,000
Methodists (Methodist Episcopal) .....	...	...	245,954
Congregationalists.....	139	230	12,155
Episcopalians.....	85	200	15,000
Presbyterians.....	209	353	21,341
Catholics.....	...	...	.....
	<hr/> 23,901	<hr/> 27,614	<hr/> 3,522,843

There are in the United States the following theological schools designed especially for Negroes:

Founded.

Atlanta Baptist College, Atlanta, Ga., Baptist.. 1867  
 Union University, Richmond, Va., Baptist..... 1867  
 Biddle University, Charlotte, N. C., Presbyterian 1867  
 Howard, Washington, D. C., non-sectarian ..... 1870  
 Lincoln University, Pennsylvania, Presbyterian 1871  
 Talladega —, Talladega, Ala., Congregational 1872

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Stillman, Tuscaloosa, Ala., Presbyterian. . . . .	1876
Gammon, Atlanta, Ga. Methodist Episcopal. . . .	1883
Braden, Nashville, Tenn., Methodist Episcopal. .	1889
King Hall, Wash., D. C., Protestant Episcopal. .	1890
Wilberforce, Wilberforce, Ohio, African Meth- odist Episcopal. . . . .	1891
Fisk University, Nashville, Tenn., Congrega- tional . . . . .	1892
Straight University, New Orleans, La., Congre- gational	

At these schools in 1903 there were thirty-three teachers and 368 theological students. Of these students sixty were college graduates. The total number of theological graduates in 1903 was 1259.<sup>1</sup>

There is an adequate number of churches for the negroes throughout the Southland. There is, to-day, a church organization for every sixty negro families. The churches are doing a grand work, but a work not commensurate with the demand—the demand being for less religious emotionalism and for more religious instruction.

The improvement in the method of presenting religious truths will depend solely on the education of the clergy. Higher intellectual standards should be set for admission into the ministry in order that more practical advice may be given from the pulpit. The negro should be taught

<sup>1</sup> *The Negro Church*, edited by W. E. B. DuBois, pp. 125 & 190.

that his life in the hereafter will depend on his life here and now; that religion is a help to right living and that a religious man is one who not only believes in God, in immortality and in the brotherhood of man, but who also lives honestly and decently, and who through the exercise of all his faculties—physical, mental, moral, and spiritual—becomes a good citizen, a good neighbor, a good husband and a good father. He should be taught that honest, faithful work is ennobling, and that to do one's work well is of greater worth and of more importance than to sing hymns or to attend camp-meetings.

“The boy should be taught that the labor by which he has to gain his living is *itself* the divinely appointed channel for his true inner life to flow in. It is by that business he will be judged, whether it be selling bacon or teaching philosophy; it is in and through his daily relations as hirer and hired, buyer and seller, that his *chance* is given him, and almost wholly in these.” <sup>1</sup>

Stress should be laid on the performance of duties during the week rather than on the observance of ceremonial acts on the Sabbath day. Religion is doing rather than believing, serving rather than dreaming.

The three great educational agencies are the home, the school, and the church. The homes of

<sup>1</sup> S. S. Laurie, *Training of Teachers*, p. 235.

the negroes are doing little to upbuild character; the public schools attended by negro children do nothing but train the intellect, leaving the character untouched; and, therefore, the negro church is practically the only agency which is engaged in the work of shaping and moulding character.

If the church remains content to exert her influence only on one day in seven, and then only on those whose inclination prompts them to place themselves under her authority, she must not be surprised if the life in the home, in the school, and in the outside world outweighs and neutralizes her teachings.

The mission of the church is broader than the observance of the Sabbath and the teaching of religion on that day; her mission includes the teaching of religion seven days in each week. To do her full duty to mankind, the Protestant and Catholic churches should establish one or more schools in every city, town, and village throughout the Southland. In such schools, religious instruction should be coupled with the prescribed studies taught in the public and manual training schools, so that the negro boys and girls may have an opportunity to develop all their faculties and to grow into well-rounded men and women.

By the establishment of a school in connection with the church, the church will properly begin



her work of developing the negro race along the lines which will elevate these people and enable them to perform their duties as citizens with credit to themselves and with benefit to the nation.

Unless the churches throughout the Southland will take charge of the instruction of negro children on week-days as well as on the Sabbath, they will not be doing their full share of the work of solving the negro problem.

## II—IDEALS

FOR many centuries the negro civilization in Africa has remained nearly stationary. The progress, if any, the negro race on that continent has made is almost imperceptible.

In early days the African negro helped the Egyptians to build the magnificent temples of Ramses, to rear the massive columns of Karnak, and to hang the hundred gates about the city of Thebes. With fear and trembling, he witnessed the invasion of the Assyrians, and, before fleeing into the desert, he beheld the fall of Egypt. He gazed upon the conquering Persians and the warlike hosts of the Hebrews. He assisted in the rearing of Carthage and saw the shining armor of the Roman legions as they took possession of the land. The fair-haired giants of the North appeared before him as they drove the Romans to destruction. From the distance the banners of the Crusaders picturesquely fluttered before his gaze as the religious army marched toward the Holy Land; and centuries later, he witnessed the "Little Corporal," surrounded by his faithful troops, bowing before the mighty sphinx.

Civilizations rose and fell, the arts and sciences flourished and died and disappeared, and the negro remained unaffected by any of the changes taking place about him. He was content with his lot; he was unambitious to live in a way different from that in which he was born. He gave no anxious thought for the morrow; to eat, to drink, and to be merry was his only concern.

Left to himself, the negro has done nothing to elevate himself or to improve his surroundings. His transfer from Africa to a life of slavery in America but slightly changed his character. The life of an American slave gave him no ambition, no incentive to be other than he was in his native land.

The curse of the negro through the centuries that have come and gone has been that he has never had implanted within him a vision of a fairer land and of a higher life; that no ideal to become a nobler man has ever burned within his breast.

It is important to remember, when considering the negro race in America, that the negro has no past history from which he can draw inspiration; that but few members of his race can trace their genealogy back four generations; that the blood of all the ethnic types that go to make up American citizenship flows in the veins of a large proportion of his race; and that his blood has been vitiated

so as to weaken that pride of ancestry which is the foundation stone upon which racial pride must be builded. Further, it must not be forgotten that the negro, with comparatively few exceptions, has no home life and no family ties; that he lives apart from white people, his Southern settlements being marked by a boundary line beyond which he is prohibited from going and over which no white man ever openly steps. He goes to separate churches, is separated in public gatherings, and travels apart from the white man. "From the cradle to the grave" he lives and moves and has his being away from white people.

The negro in the South has no opportunity to gain a knowledge of right living and of the fundamental principles which underlie an enlightened civilization from social intercourse with cultured and educated white Americans; he views them from afar, and looks upon their style of living as belonging peculiarly to the white race, and, not finding his own people adopting their customs, he imagines that their kind of life and their manner of living are not for him.

Unfortunately true it is that the only white people with whom he is permitted to come into contact are those whose influence is degrading. The white man's saloon cordially welcomes him, the white gambler is racially color-blind, and the immoral are unmindful of his dark skin.



To the white race the negro never looks for examples; if he seeks at all for an ideal or a leader, he seeks among his own people. For "the head that the great body of our colored citizenship will ultimately follow, is not found on the shoulders of any class of white men."<sup>1</sup>

The tendency of man is to approach to the standard set up by the best of those of his own race around him. Being human, the negro looks up to the man who possesses more property than he does, and respects the man who through honest labor is enabled to live in a better house amid more cheerful surroundings than the one in which he himself resides. And if the negro colony has no member who is superior in intelligence and in character to the rest of the community, nor one who lives in a more civilized fashion than his neighbors, what incentive can there be for individual improvement?

Imitation is one of the most important forces in the development of the social life. There is no medium through which a human being receives more from others than from the process of imitation. The child imitates his parents as the parents imitate their neighbors. The spread of the industrial arts, the advancement of science and learning, and the general use of modern appliances all point to the importance of imitation in the practical affairs of life.

<sup>1</sup> *U. S. Bureau of Education*, 1902, p. 85.

"We are affected by the judgment of those about us, whether we will or no," asserts Dr. Arthur Twinning Hadley, "and many of those who most loudly protest that they are living their life for themselves are really just as much affected as any one else. 'If the foot shall say, Because I am not the hand I am not of the body, is it therefore not of the body?' Amid the daily contact of our social life habits of thought, standards of value, subtle influences in the estimate of right and wrong, pass from man to man just as quietly and unconsciously as the blood passes from one part of the body to another, bearing seeds of life or death to the whole body, as the case may be. By this subtle contact a sort of public conscience is created; a habit of valuing things, not for their effect upon the individual, but for their relation to certain standards of the community, commercial or political, moral or religious."<sup>1</sup>

Professor Baldwin spoke truly when he said:

"A man is a social outcome rather than a social unit. He is always, in his greatest part, also some one else. Social acts of his—that is, acts which may not prove anti-social—are his because they are society's first; otherwise he would not have learned them nor have had any tendency to do them. Everything that he learns is copied, reproduced, assimilated from his fellows: and what all of them, including him—all his fellows, the *socii*—do and think, they do and think because they have each been through the same course of copying, reproducing, assimilating, that he has

<sup>1</sup> *Baccalaureate Addresses*, pp. 205, 206.

When he acts quite privately, it is always with a boomerang in his hand; and every use he makes of his weapon leaves its indelible impression both upon the other and upon him."<sup>1</sup>

This subtle process of interchange of ideas creates a social conscience and a social standard or morality. What is known as "public opinion" is but the composite view of society on a given subject. The social mind, in the words of Professor Charles H. Cooley,

"is an organic whole made up of co-operating individualities, in somewhat the same way that the music of an orchestra is made up of divergent but related sounds. . . . The view that all mind hangs together in a vital whole, from which the individual is never really separate, flows naturally from our growing knowledge of heredity and suggestion, which makes it increasingly clear that every thought we have is linked with the thought of our ancestors and associates, and through them with that of society at large. . . .

"The unity of the social mind consists, not in agreement, but in organization, in the fact of reciprocal influence or causation among its parts, by virtue of which everything that takes place in it is connected with everything else, and so is an outcome of the whole. Whether, like an orchestra, it gives forth harmony may be a matter of dispute, but that

<sup>1</sup> *Social and Ethical Interpretations*, p. 81.

its sound, pleasing or otherwise, is the expression of a vital co-operation, cannot well be denied."<sup>1</sup>

Deliberate imitation is comparatively rare, while imitation of the suggestive order is universal and constant. If people about us are walking fast, we unconsciously quicken our pace; if they are rushing toward a single point, we feel an impelling influence to join them. Thus mobs are formed and mob-action is accomplished. Panics are in the same way brought into existence. In every province of life, among every race of human beings, a multiform social knowledge is arising, and, mingling with the moral impulse, is forming a system of national ideals which, through leadership and emulation, are gradually working their way into practice. Phillips Brooks has wisely said:

"We often hear the cry, 'Principles, not men.' But to send out principles without men is to send an army of ghosts abroad who would make all virtue and manliness as shadowy as themselves. It is principle brought to bear through the medium of manhood that draws and inspires."

Men and women of character and education, fitted to be leaders among their own people, must be furnished to every negro settlement, if the race is to be lifted up to and placed upon a higher plane of thought and life.

<sup>1</sup> "Social Consciousness," *Am. Journal of Sociology*, March, 1907, p. 675.



"Knowledge of life and its wider meaning has been the point of the negro's deepest ignorance, and the sending out of teachers whose training has not been merely for bread-winning, but also for human culture, has been of inestimable value in the training of these men,"

are the words written by the leading sociologist of the colored race, Dr. W. E. Burghardt DuBois of Atlanta University, an institution engaged primarily in this very work.<sup>1</sup>

No nation, no people without a Utopia ever advances. Without the dreaming of dreams and the indulgence of visions, stagnation and retrogression will assume their fatal sway. Though the dream may never be realized, no vision of a fairer earth leaves man quite where it found him.

"What I aspired to be,  
And was not, comforts me,"

says Browning's Rabbi Ben Ezra, and it may well comfort any one. For the ideal, which is the creative force behind action, changes the worth of man, if he struggles up towards it, even though the ideal be unrealized.

"Where there is no vision the people perish," are the prophetic warning words carved in stone on the outer walls of the University of Geneva.

No Utopia can be imposed from without. It must grow up within the human heart and in the very heart of society. It is largely the result of

<sup>1</sup> *The Negro Problem*, p. 55.

that education which widens a man's horizon and imparts a desire to progress upward and to possess the best things of earth. An ideal is the most practical thing in the world, for it is the force which compels action.

The teacher, the preacher, the lawyer, the physician, having graduated in his chosen profession at Atlanta, Fisk, or kindred Universities and having learned at the institution the value of a civilized mode of life, who goes into a settlement of his fellows and builds a home of several rooms and marries and devotes himself to his family, cannot help creating an atmosphere, the influence of which will slowly but surely lead others to live as he does. This leaven in the community will in time cause the discarding of the one-room cabin and of the indiscriminate herding of young and old, of families and strangers, and will reveal the beauty and joy of home life amid cheerful surroundings, where morality and the principles of the higher life are respected and adopted; this leaven will eventually arouse and encourage the colored man and the colored woman to develop all the possibilities for good which exist in them.

### III—POLITICS

IN 1867, the Fourteenth Amendment to the United States Constitution was adopted. This amendment prohibited every State from depriving "any person of life, liberty, or property without due process of law," and from denying to any person "the equal protection of the laws." Two years later (1869) the Fifteenth Amendment was added to the Constitution. This new article prohibited every State from denying the rights and privileges of suffrage to any citizen of the United States "on account of race, color, or previous condition of servitude."

Contrary to the general opinion, this provision "does not confer the right to suffrage on any one. It prevents the States of the United States from giving preference in this particular to one citizen of the United States over another, on account of race, color, or previous condition of servitude. Before its adoption this could be done." <sup>1</sup> So that to-day the Constitution of the United States declares and firmly fixes the right of American male

<sup>1</sup> *United States v. Reese*, 92 U. S., 214.

citizens—black and white—to vote upon the same terms.

Despite and in defiance of the Federal Constitution, the negroes in six Southern States have been practically disfranchised. True, the State suffrage laws which have been enacted appear not to discriminate between the races, but under their enforcement, they have the effect of excluding the negro male citizens from voting.

In Virginia, the suffrage qualification is the payment of a poll-tax or the record of service in time of war in the Army or Navy of the United States, or of the Confederate States; in South Carolina, the payment of a poll-tax and the ownership of \$300 worth of property, or the ability to read and write any section of the State Constitution; in North Carolina, the ability to read or write, or having an ancestor who was entitled to vote prior to January 1, 1867; in Alabama, the payment of a poll-tax; in Louisiana, the ownership of \$300 worth of property, or the ability to read and write, or having had a father or grandfather who was entitled to vote on January 1, 1867; in Mississippi, the payment of a poll-tax and the ability, if not to read, to understand and explain the Constitution.<sup>1</sup>

Despite the manifest discrimination and favoritism contained in the special exception clauses, if the suffrage laws were applied with equal

<sup>1</sup> *World 1908 Almanac and Encyclopedia*, pp. 240, 241.



impartiality to the members of both races, very little legitimate objection could be raised to them. But in their practical operation, the male negro citizens are in these States almost entirely excluded from voting. The "character" and "understanding" tests leave virtually full power with the registration officers, who usually see that the white race controls the election.

Senator B. R. Tillman of South Carolina, in a recent lecture, frankly admitted in regard to his State what he asserted is the condition in all the Southern States:

"In 1895 we changed our constitution and disenfranchised every negro we could. There were 140,000 of them, and when we got through there were only 15,000 that could register."<sup>1</sup>

These acts of Southerners were necessary in order to overthrow negro political supremacy and to place decent white men in political power. The citizens of the former slave States, having grievously suffered financially from the political rule of illiterate negroes and the white carpet-baggers who were their leaders, saw only one way to obtain possession of the machinery of government, and that was by disfranchising the negro citizens. When it is considered that there are 225,000 more negroes than white people in South Carolina, and 265,000 more negroes than white people in Miss-

<sup>1</sup> Lecture, Buffalo, N. Y., Nov. 30, 1907.

issippi, and that in Georgia, Florida, Alabama, and Louisiana the white majority is small, the reason for the political action of citizens of these States becomes plain.

To take away from the negro not only his right to vote, but also all hope of ever obtaining that right, will retard his advancement and blacken his future. To permanently disfranchise the negro, after he has tasted of democratic political freedom, will destroy the mutual respect, confidence, and good-will which should exist between the races. If such an act were perpetrated, the whites would grow to fear, distrust, and hate the negro because of the wrong they had done him; and the negro would return this fear, distrust, and hatred while brooding over the degraded position in which, without his fault, he had been placed. His primitive instincts would urge him to create race feuds and conflicts which would end only after years of bloodshed, in the extinction of the negro race. It would cause a large part of the negro laborers to become restless and discontented with their civil position, thereby lessening their efficiency to do good work and to produce the best results. Their energy, instead of being devoted to production, would be spent in fomenting labor disturbances and in planning as to how little they could give in exchange for the wages paid.

The freest and most intelligent labor is the most productive. The American laborer holds the

front rank among the laborers of the world, because he has received an education and has participated in the affairs of government by his power to vote. The American laborer, because of his education and of his governmental responsibility, is alert, assertive, resourceful, independent, and self-respecting; he is able to take care of himself and to compete with his fellows at home and abroad.

The ballot was thrust upon the negro; it was not the result of his seeking. The war being over, the government, wishing to withdraw the United States troops from the South, felt that it could not safely do so without giving to the negro a weapon with which he might protect himself. Especially was this so in view of the conditions described by Mr. Justice Miller in the Slaughter-House Cases:

“The process of restoring to their proper relations with the Federal government and with the other States those which had sided with the rebellion, undertaken under the proclamation of President Johnson in 1865, and before the assembling of Congress, developed the fact that, notwithstanding the formal recognition by these States of the abolition of slavery, the condition of the slave race would, without further protection of the Federal government, be almost as bad as it was before. Among the first acts of legislation adopted by the several States, in the legislative bodies which claimed to be in their normal relations

with the Federal government, were laws which imposed upon the colored race onerous disabilities and burdens, and curtailed their rights in the pursuit of life, liberty, and property to such an extent that their freedom was of little value, while they had lost the protection which they had received from the former owners from motives both of interest and humanity.”<sup>1</sup>

And as the ballot is the strongest weapon of defence under a democratic form of government, the Constitution was amended and the negro was politically enfranchised.

It was a grave mistake to give the ballot to the negro in the first place, and then, after he became a voter, to undertake the work of educating him to appreciate the value and to exercise aright the political privilege conferred. The result of such an act was that corruption in politics spread faster than did the education of the voter, and to-day a large proportion of the negroes in the South are inoculated with the idea that politics is but a method of private gain.

How true was the prophecy uttered by Henry Ward Beecher in his sermon on October 29, 1865, and how important it is to-day to let its truth sink into our minds and hearts. With clarion tones he thundered forth the words:

“You may pass laws declaring that black men are

<sup>1</sup> 16 Wallace, p. 70.



men, and that they are our equals in social position; but unless you can make them thoughtful, industrious, self-respecting, and intelligent, unless, in short, you can make them what you say they have a right to be, those laws will be in vain. . . . You will never be able to secure it [suffrage] and maintain it for him, except by making him so intelligent that men cannot deny it to him. You cannot long, in this country, deny to a man any civil right for which he is manifestly qualified."

Hon. James K. Vardaman, Governor of Mississippi, has wisely said:

"This inestimable privilege was thrust upon the negro, snatching him out of his twenty thousand barbaric years and placing him shoulder to shoulder with the heir of all the ages. This was a stupendous blunder, worse than any crime, and the sober second thought of the nation should correct it."

The South is right in its efforts to purge the ballot of ignorance and crime. But let the Southern white man remember that voting is necessary to modern American manhood and that no human being has the right to retard the development of the negro laborer, artisan, and land-owner who is thrifty, honest, and educated. Let him not forget that "taxation without representation is tyranny," just as much to-day as it was in 1776. And may he ever remember his duty to uphold the 15th Amendment to the Constitution of the

United States, by which the States are forbidden to deny the right of any citizen to vote "on account of race, color, or previous condition of servitude."

Suffrage means self-government. Self-government implies intelligence, self-control and capacity for co-operative action. If these qualities are lacking in the voters, the ballot only paves the way for the "boss" and the corruptionist.

No reasonable objection can be raised against the individual States providing an educational or a property qualification for voting, a qualification which will give evidence of the ability of the voter to use the ballot for the benefit of the community, provided such qualification is honestly and fairly applied to all citizens, irrespective of race or color. This reward for acquiring education or property will stimulate the negro to make the most of himself and will encourage him to win for himself a place of honor and of power. The right to vote, when conferred as a reward of merit, will mean something higher and more sacred than it now does; the lesson such a course will teach is that the colored man, as well as the white man, must stand on his own merits and be judged according to his own work. This will give the negro something to work for and something for which to live. It will provide a new standard by which the negro will be judged; he will then be considered as an individual and not as one of a

mass, an unseparated member of a race, as he is looked upon to-day. The negro criminal will then be dealt with as a criminal; the reputable negro will be esteemed for his good character; the successful negro merchant and professional man will be honored according to his work; and each man, whether he be white or colored, will be judged on his own merits and will stand or fall on his own showing.

That it is most important to cease considering the negro as the race and to begin to look upon him as an individual, is evident by the words of President Roosevelt in his message to Congress on December 5, 1906, in which, after referring to the prevalent practice of attacking the whole negro race when one of its members commits a crime, he admirably stated:

“There is but one safe rule in dealing with black men as with white men; it is the same rule that must be applied in dealing with rich men and poor men; that is, to treat each man, whatever his color, his creed, or his social position, with even-handed justice on his real worth as a man. White people owe it quite as much to themselves as to the colored race to treat well the colored man who shows by his life that he deserves such treatment; for it is surely the highest wisdom to encourage in the colored race all those individuals who are honest, industrious, law-abiding, and who, therefore, make good and safe neighbors and citizens. Reward or punish the individual on his merits as an individual. Evil will surely come in the

end to both races if we substitute for this just rule the habit of treating all the members of the race, good and bad, alike. There is no question of social equality or negro domination involved; only the question of relentlessly punishing bad men, and of securing to the good man the rights to his life, his liberty, and the pursuit of his happiness as his own qualities of heart, head, and hand enable him to achieve it."

"For us to ask the negro boy to submit to a test which we are unwilling to apply to our own sons, would be in my judgment," said Edgar Gardner Murphy, "a reflection upon the capacity of our white population; and our people, wherever it may be attempted by the politician of the hour, will come so to regard it."

White Americans should give to negro Americans the democracy defined by James Russell Lowell as "that form of society, no matter what its political classification, in which every man has a chance and knows that he has it."<sup>1</sup>

The time has now come for Southerners to rid their minds of the absurdity of connecting political rights with social equality. The right to vote and to hold office has no connection whatever with the right to social intercourse or the entry into the marriage state. The social divisions in the North are numerous and deep, and the mere practice of political equality gives no means whatever of passing from one social set to another. The

<sup>1</sup> Address before the Birmingham and Midland Institute, Oct. 6, 1884.



social status of a citizen is never determined by his political position in the community. The Southern view should be so modified until the matter of voting and of holding office is looked upon as a duty and not as a card of admission into society.

If the negro, as some anthropologists claim, belongs to an inferior race, and by reason of his lack of mental vigor and power of mental control is incapable of attaining the stage of culture reached by the white American, then there is no danger of "negro supremacy" should a high educational standard be provided as a condition to voting. And if the negro, as Senator B. R. Tillman asserts, is "characterized by thriftlessness and lack of sustained effort, and . . . of living for to-day while to-morrow can take care of itself," and that "there is no known method of increasing the efficiency of negro labor, and that . . . it is almost inevitable that white immigrants in the near future will take the place of negroes and compete successfully in the field of cotton production"—then will not the danger of "negro supremacy" disappear and the white race be placed in the absolute control of the political machinery of government by providing for a property qualification for voting?

If, on the other hand, as some anthropologists contend, there is no evidence of a decided mental inferiority on the part of the negro, and the

mere fact of the retarded development of the race cannot be considered as an indication of their future achievements, then what danger can arise from the voting of a people qualified as equally as all others as to education and property ownership, if an educational and property qualification is required as a prerequisite for voting?

When a suffrage plan is adopted requiring a reasonable property and educational qualification as a prerequisite to voting, and when the suffrage laws are interpreted and applied with equal fairness and justice to the white and the negro citizens, many phases of the negro problem will be in the way of a speedy solution, and many of the misconceptions now existing, which bar the upward progress of the race, will pass away.

#### IV—SOCIAL EQUALITY

**D**URING the whole period of slavery the crime against white women did not exist, nor did it exist to any considerable extent for some years after emancipation. During the war, the men were away from home serving in the army, fighting heroically to keep the negro in perpetual slavery, and the negroes were the loyal guardians of the women and children and the faithful toilers not only for the support of the families in their charge, but also for the sustenance of the entire Confederate army. And to the credit of the race it may be said that there is not a single instance recorded where the negro in any way attempted to outrage the family of his master or to injure his property.

Then came the period of reconstruction, with its unwise and corrupt teachings. Among these was the teaching that as the colored man was now the equal of the white man he must actively assert his equality. He was given the assurance that he was the ward of the nation and that the government would sustain him in his struggle with his

former masters. These teachings took deep root in his mind and have slowly but persistently grown with the years.

This crime had its origin in the teaching of the equality of the races. The intelligent negro may understand what political equality truly means, but to the ignorant negro, equality signifies not only the right to vote, but also the privilege to enjoy equally with the white men social intercourse with white women. The two millions of mulattoes in the South are the only records of morality that many of the negroes have been given to study. The colored men have not forgotten that their mothers and grandmothers in slavery were not allowed to be modest or to follow the instincts of moral rectitude. They remember that throughout the whole country a colored woman did not know a single man to whom she could legally go for protection against the man who owned her body and soul. Small wonder is it, therefore, that this crime is so frequent in certain sections of the South when we consider the large number of young negroes who are without education and the possession of any past family and racial history save the horrible tradition of the condition under which their mothers and grandmothers were forced to live.

To teach the negro the true meaning of the term "equality," the rope and the torch have been used. To further create race antagonism, to



brutalize by the sight of torture, to arouse feelings of vengeance, to inflame to the uttermost the power of criminal suggestion—is this the way to uplift the negro so that he will abhor this crime? Whatever may be the motives which induce the adoption of these so-called “remedies,” the fact remains that punishments do not prevent crime. On the contrary, each application of mob rule has been followed by new outbreaks of the same offence, and the commission of the most atrocious crimes within short intervals thereafter.

The South maintains the policy that within her own borders the color line be drawn firmly and unflinchingly in all the social relations of the races. She concedes, yea, even practises, justice toward the negro and disregards the color line in such extra-social matters as business, literature, science and art. Is this attitude of the South in demanding social separation unfair, unjust, and inequitable?

If the barrier raised by white Southerners between the races was to be broken down, the Southern Caucasian, as a race, would be doomed. The white and the negro races in the South are so near equal in numbers that, were this social partition wall to be removed, the mingling of the races would immediately set in and would proceed steadily until both peoples as separate races would disappear. Between the white and the black races there exist natural physical differences

and a barrier raised by thousands of years of varying development, so that the white and the black people cannot unite without the white race losing some of its power, though at the same time the black race may gain a temporary benefit.

Mr. James Bryce in his Romanes Lecture of June 7, 1902, on "The Relations of the Advanced and the Backward Races of Mankind," says:

"Where two races are physiologically near to one another, the result of intermixture is good. Where they are remote, it is less satisfactory; by which I mean not only that it is below the level of the higher stock, but that it is not generally and evidently better than the lower stock. . . . But the mixture of whites and negroes or of whites and Hindus, or of the American aborigines and negroes, seldom shows good results. The hybrid stocks, if not inferior in physical strength to either of those whence they spring, are apparently less persistent, and might—so at least some observers hold—die out if they did not marry back into one or other of the parent races. Usually, of course, they marry back into the lower. . . . The two general conclusions which the facts so far as known suggest are these: that races of marked physical dissimilarity do not tend to intermarry, and that when and so far as they do the average offspring is apt to be physically inferior to the average of either parent stock, and probably more beneath the average mental level of the superior than above the average mental level of the inferior. . . . Should this view be correct, it dissuades any attempt to mix races so

diverse as are the white European and the negroes."

Professor Louis Agassiz realized this keenly. In 1863 he wrote, "Social equality I deem at all times impracticable—a natural impossibility from the very character of the negro race."

To protect and preserve the race, Southerners have found that it is imperative that no social intercourse should exist. By "social intercourse" is meant the mingling of the white and black races in their homes and in the social life.

In the North, with its few scattering negroes, the problem of the mingling of the races through marriage is practically unknown. The difficulties and dangers existing in the South, requiring the separation of the races, never confront them. The possibility of miscegenation is not suggested to them or, at least, it is seldom, if ever, brought home to them.

Professor Albion W. Small has well stated the reason for the difference between the race-sentiment in the South and in the North in the following words:

"A visitor from the North goes to a Southern State, and before he has been there an hour, if he mingles with the people, he detects a something in the social tone which he has read about, but never before distinctly experienced. He finds himself among some of the most genial, warm-hearted, high-minded people



he has ever seen; but he finds them governed by a code of sentiments toward the colored man which seems to him unintelligible and inconsistent. The Northern man does not know how to draw the distinctions in his conduct toward the black man which the Southern man draws instinctively; and, on the other hand, the Northern man will draw lines at points where the Southern man does not feel the need of them. Here are two different spiritual environments. The Southern man lives in an environment of race distinctions. The Northern man lives in an environment of merely personal distinctions. To the Northern man personal likes and dislikes, social inclusion or exclusion, will depend on the individual. His being a negro makes no more difference than his being a Spaniard or Italian or Russian or Englishman. To the Southern man the idea of a socially acceptable negro is a contradiction of terms."<sup>1</sup>

Let the people of the North look at the question from the standpoint of the South as it exists amid the conditions of the Southland, and the actual peril of the situation will at once appeal to them, and they will immediately throw the whole weight of their authority to preserve intact the white race in America.

Well has Mr. William Benjamin Smith said:

"We do not deny that there may be cases that move our sympathy; that appeal strongly to our sense of fair play, of right between man and man. In and of itself, it may sound strange and unjust and even

<sup>1</sup> *General Sociology*, p. 485.



foolish to deny to Booker Washington a seat at the table of a white man, even should he be distinctly Mr. Washington's inferior. But the matter must not be decided in and of itself—no man either lives for himself or dies for himself. It must be judged in its larger bearings, by its universal interests, where it lays hold upon the ages, under the aspects of eternity. We refuse to let the case rest in the low and narrow category of Duty to the Individual; we range it where it belongs, in the higher and broader category of Obligation to the Race.”<sup>1</sup>

If white men of equal ability and standing to Mr. Washington should visit at the same house, sit down at the same table and enjoy social intercourse with him, the example set would pave the way for white and black people enjoying the same degree of intelligence, wealth, or position, to mingle on the same basis of social equality, and men and women of the negro race, from the lowest and most ignorant class upward, would feel the right to meet socially with their white neighbors. If the social barrier should be broken down anywhere, it would result in the final overthrow of all barriers between the races; for a privilege granted to one member of a race is naturally deemed a right conferred on all.

It is the duty of civilization always to protect the higher races against the deteriorating influences of the lower races. This does not mean

<sup>1</sup> *The Color Line*, p. 26.

that the lower races should be prevented from rising, but that they should not be permitted to break down the higher.

The negro race must preserve its race identity and work out its own salvation as a separate and distinct race. For two distinct peoples to live in the same land, friction and race prejudice will inevitably occur. But for two races, though separate and distinct as to color, hair, and cranial measurement, and differing as to stages of development, to live under one government side by side in the same land, with mutual progress, in peace and happiness, does not seem impracticable in the advanced civilization of the United States.

Laws have been enacted in every State of the South forbidding the intermarriage of the races, and separating the two peoples in theatres, hotels, public conveyances and in every sphere of life where the arm of the law can extend. Legally the white and the black people in the South are separated beyond the reach of personal contact but at the same time the white man practises in secret and almost with impunity a species of polygamy with black women. The reason for the existence of this state of affairs is twofold,—the want of standing of the colored woman before the courts and the indifference of the white women of the South.

Mr. A. H. Grimke has recently declared:

“No colored girl, however cruelly wronged by a

white man in the South, will be able to obtain an iota of justice at the hands of that man in any court of law in any Southern State, or get the slightest hearing or sympathy for her cause at the bar of Southern public opinion."<sup>1</sup>

Too long have the white women of the South tolerated the illicit relations of white men with black women; too long have they condemned their colored sisters and overlooked the guilt of their white brothers. The large number of mulatto children in the Southland is a striking testimony to the continued existence of this awful state of affairs.

It is to the white women of the South that the negro race must look for the reformation of the white men. If the white women were to take the part of the sometimes persecuted and the many times unmoral black women, and were to stamp the seal of their disapproval and disgust on the acts of white men in regard to their illicit practices, they would win for themselves a higher place in the estimation of the black man; but more—by raising the morals of their white men they would at the same time lift up the morals of the women of the black race.

Let the white women of the South remember and carefully ponder the truth stated by Rev. A. D. Mayo:

<sup>1</sup> "The Heart of the Race Problem," *The Arena*, June, 1906, p. 608.

"The ordinary unchaste negro woman is not the 'fallen woman' of the old civilization, but a half-animal creature, on her way up from the lower realm of human existence to a family life in accord with the fundamental virtues of a Christian civilization."<sup>1</sup>

Men will rise to the level of any standard that women set for them. If the women are immoral, morality will be unpractised, for it is the teaching of morals at the mother's knee that counts in the formation of character. High, noble, and strong ideas in regard to morality and rigid adherence thereto by the women are absolutely essential if the men are to live decent, moral lives.

The present standard is due largely to the ignorance or indifference of the white women of the South. When women will resolve never to receive into their drawing-room in friendly intercourse with their own daughters the man who has stepped beyond the color line in his private social relations, and will refuse to permit their daughters to marry such a man, no matter how great his wealth or how high his position, a long step will have been taken to protect the negro girls and to preserve the separateness of the races.

The sanest and surest way to teach the negro the sacredness of white womanhood is for the white men of the South to revere and guard all women whether of colored or of white skin. The equal protection of colored and white women by white

<sup>1</sup> *U. S. Bureau of Education*, 1902, p. 108.



men will undoubtedly awaken a kindred sentiment in the minds and hearts of negro men which in time will irradiate the deplorable crime against white women.

The black women of the South must be guarded as sacredly by law and by public opinion as are the white women, if both the white and black races are to grow upward in the scale of life, and civilization is not to be retarded in its higher development. The double standard must be blotted out and a single one erected in its stead, applicable to both races, or ultimately both peoples are bound to deteriorate.

The absence of the crime against white women during slavery was due more to the feelings that existed among the negroes themselves than to any measure for protection adopted by the white man. The negro had the same animal instincts during the slavery period that he exhibits to-day; the punishment that follows the commission of the crime at the present time is no more certain and terrible than it could have been before the Civil War. The ideas and feelings of the negro have been perverted by acts of racial antagonism, by the talk of the social equality of the white and the colored races, and by the lack of a strong, restraining public opinion among the negroes themselves. Punishment, no matter how severe, will never prevent or deter the commission of this crime. Ignorance, idleness, shiftlessness, out of

these evils does this crime spring. Industrial and moral education as taught at Hampton and Tuskegee Institutes, intellect and character-building as developed at Atlanta and Fisk Universities, strike directly at the evils which foster this crime. This is proven by the fact that not one of the hundreds of graduates who have gone out from these institutions have been guilty of it.

## V—FEDERAL AID

THE people of the United States who conferred upon the negro the full rights and privileges of citizenship impliedly assumed the task of educating him to understand the duties and to exercise the privileges in such a way as to redound to the best interests of the whole people. This obligation was at once realized and the Freedmen's Bureau was organized under the Federal government.

Since the discontinuance of the Freedmen's Bureau in 1869, however, the United States has shirked its duty by ceasing to provide the means whereby the negro might learn to properly exercise his privilege of suffrage.

The Southern States have done much to educate the negro by establishing and supporting free public schools, and the negro race has given largely to provide its own people with teachers and schools; and yet, to-day, a large number of negroes in the Southland are receiving no education whatever, and a still larger number are receiving so little schooling as to be of slight avail

to them. And the negro race, comprising about one ninth of the population of the country, is admittedly unqualified to perform the duties of citizenship, thereby creating an evil which threatens the very stability of the government.

The Southern States are doing all that can be asked of them, and the negroes are giving as largely as can be expected. If additional help is to be afforded, it is to the United States, which is responsible for the Fourteenth and Fifteenth Amendments to the Constitution, that the people of the South as well as the people of the North are beginning to turn.

The South's problem is the nation's problem. There can be no sectional problem in a single country. One part depends on all other parts as one organ of the human body depends for its health and its growth on all the other organs. The uplifting of the negro is a national task. There is a common responsibility resting on the shoulders of all Americans wherever they may reside.

"It is the right and duty of the State to see that all proper means are taken to preserve and perpetuate its life, as much as it is the right and duty of the individual thus to preserve his life. If the State neglects to do this, it fails to fulfil its mission and the divine purpose concerning it, and deserves to die. It becomes therefore the solemn and imperative duty of the State to see that every child within its bounds



receives an education that will fit it to become a useful member of society, and a healthy member of the State life."<sup>1</sup>

The supreme end of the education which is supplied by general taxation is to develop good citizens; for upon the character of its citizens depends the preservation of the government and the full development of its life.

The requisites of good citizenship are threefold:

(1) *Intelligence*: A mind educated so as to be able to correctly understand and to properly weigh the questions of government submitted to the voters for their adoption or rejection.

(2) *Responsibility*: That personal interest in the government which arises out of the ownership of property earned by honest toil upon which taxes may be levied for the support of the government.

(3) *Character*: That combination of qualities and principles which enables one to withstand temptations and to do what is right and to leave untouched the things that are wrong.

What the State needs in relation to its legitimate ends, or the ends for which it was instituted, it has the right to establish and control. Ignorance and immorality are the two greatest evils menacing the State. For the protection of its life and for

<sup>1</sup> Open Letter of Boston Committee of One Hundred, October, 1888.

the promotion of the public good, the Federal government has the right to eradicate these evils and, therefore, is in duty bound to destroy them. This is the legitimate end for which the American government was organized.

To furnish education to the children of negro citizens, schools should be established and should receive financial assistance from the national government. Such schools should recognize the threefold educational qualifications for voters, and, in addition to furnishing the regular common school secular studies, should provide that manual training go hand in hand with the intellectual work, in order that the youths may learn how to earn a living and to accumulate property which may be the subject of taxation. Further, the principles of religion should be interwoven into all the work of the school so that character may be formed and strengthened. The generations which have come and gone have proven the wisdom of the saying of that ancient seer King Solomon: "Train up a child in the way he should go, and when he is old he will not depart from it." "Whatever we wish to see introduced into the life of the nation," said the great German scholar William von Humboldt, "must first be introduced into its schools."

The Ordinance of 1787 provided that "religion, morality, and knowledge being necessary to good government and the happiness of mankind, schools

and the means of education shall forever be encouraged."

The United States government, owing to the lack of religious harmony among the delegates to the Constitutional Convention, was given no spiritual or religious function, and therefore is authorized to furnish only secular education. It has no power to pronounce on religious matters, no authority to determine the validity of any religious creed. To discriminate in favor of any one creed, to the exclusion of all others, would be unconstitutional. With far-seeing wisdom our forefathers enacted the following, being the First Amendment to the Constitution: "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof."

To undertake the development of character in its citizens by instilling the fundamental principles of religion, the Federal government is powerless. This work must be done by the churches in co-operation with the government schools. With the assistance of the churches, the national government may provide the means for the full development of negro citizens of the highest type.

Let Congress pass a law recognizing the following principles and embodying the following provisions:

1. The democratic form of government of the United States rests upon the education of the people.
2. The Federal government having conferred



the rights, privileges, and duties of citizenship upon negroes upon the same terms as bestowed on white citizens, and such negroes as a class being unfit to properly exercise their privileges as citizens, it is the duty of the Federal government to protect and preserve itself by providing the necessary means wherewith to educate the negro citizens to wisely use the powers of government conferred upon them.

3. All negro parents who are mentally and morally competent to have the care and custody of their children should be permitted to select the schools in which their children shall receive instruction.

4. The Federal government has no right to force upon any negro child any particular teacher, book, or system of religious or non-religious instruction.

5. The business of educating negro children should be open to private enterprise and to free competition. No discrimination should be made between State public schools and private educational institutions.

6. The Federal government should recognize the right of the individual States to prescribe the secular studies to be taught in all schools, public and private, whether secular or religious, and only such schools as fully comply with the State education laws should be entitled to receive financial aid from the national treasury.



7. A religious school should be entitled to receive aid from the Federal government on the same terms as all other schools, public and private, provided it has complied with the following conditions:

(a) That the school building has been properly inspected and approved as to hygienic and general structural conveniences by the government of the city, town, or village in which such school is located.

(b) That the secular studies taught are those prescribed by the State government.

(c) That the amount of secular instruction given is equal to the amount prescribed by the State for its public schools.

(d) That it permits the same periodical inspection by the State authorities as is applied to the State schools.

(e) That if religious instruction is given, in addition to the prescribed secular studies, no part of the money furnished by the Federal government should be used to pay for the giving of the same.

(f) That its teachers possess the same certificates and diplomas that are required by the State for teachers to possess in order to secure positions in the State schools.

(8) The board of management of all schools, public and private, should be paid for teaching negro children an annual allowance of \$        per

capita for all negro children passing an examination prescribed and conducted by State officials. Such examination and the standard of correctness required should be the same as is provided for like grades in all public schools.

If the churches and the Federal government will co-operate in organizing and conducting schools in which the head, the heart, and the hand are trained, the negro race will grow into citizens of whom the whole nation will some day be proud.

## VI—CONCLUSION

LET not the North judge the South too harshly. The ignorant Southerner may hate the Negro, the Southern working man may fear his competition, the sordid money-lender may wish to keep him in ignorance, the corrupt politician may endeavor to count him as a voter and at the same time prevent him from voting, and some of the educated Southerners may see a menace to the country in his upward development, but the better class of the South, notably the sons of the old masters, are endeavoring to help him to rise, by paying taxes to maintain Negro schools, and by using their power to protect him in the possession of life and property.

The policy of an enforced ignorance is illogical, un-American, and un-Christian. It is indefensible on any ground of social or political wisdom and is unsupported by any standard of ethics or justice. Education is an indispensable condition to wealth and prosperity. Ignorance inevitably acts as a brake on the wheels of the industrial

and political coaches moving toward prosperity and perfection.

The curse of the race is that the ideal of the majority of negroes is to be men of leisure, rather than to grow to be expert workmen. To the average negro there is no joy in the doing of work. By trampling on the very condition of joyous work, work is robbed of its immense happiness-producing power. In reality—and this fact should be brought home to the minds of all negro citizens—work is one of the things for which mankind ought daily to render thanks to the Creator.

Education of the mind, skill of hand, ideas of thrift and economy, a spirit of independence, and Christian character are the sum total of the education the negro requires.

The great mass of the negro race need common-school education, coupled with manual training and a well-grounded knowledge of religious principles. "Mental development, alone," says Mr. Booker T. Washington, "will not give us what we want, but mental development tied to hand- and heart-training, will be the salvation of the negro."

A few select negroes need a higher or college education, such as is furnished at Atlanta and kindred universities, so as to become teachers of teachers and "to be leaders of thought and missionaries of culture among the masses."

And all negroes require that development of



character which is possible only by the absorption, assimilation, and practice of those religious principles which enable one to live a noble, self-sacrificing, serviceable life.

Equal political privileges with white men—privileges based on the possession of intelligence and property—are essential to the well-being of the race and to its development along American lines.

That the negro failed to use the political privileges conferred on him with the wisdom shown by white citizens is no excuse for withholding the ballot from him. When considering the question of the political elimination of the negro or the advisability of allowing him to exercise equal political privileges with white men, it would be well to consider the words of truth and of wisdom uttered by Hon. Elihu Root, Secretary of State, in the course of his lecture at Yale College on the "Responsibilities of Citizenship," when he said:

"Another lesson the experience of popular government has already made plain is that the art of self-government does not come to men by nature. It has to be learned; facility in it has to be acquired by practice. The process is long and laborious; for it is not merely a matter of intellectual appreciation, but chiefly of development of character. At the base of all popular government lies individual self-control and that requires both intelligence, so that the true

relation of things may be perceived, and also the moral qualities which make possible patience, kindly consideration for others, a willingness to do justice, a sense of honorable obligation, and capacity for loyalty to certain ideals."<sup>1</sup>

The manual training of the negro has not created industrial war between the white and the colored races. There is no prejudice on the part of the Southern white man against the negro as a skilled laborer, as all his life he has been accustomed to do business with the negro in that capacity.

The South is ready and willing to give equal industrial opportunities to honest and skilled laborers of both races, for it realizes that the way to promote and maintain friendly relations between the races is for all dwellers in the Southland to live and labor with mutual respect.

The whole field of industry is open to him. The Southern whites are not troubled by his efficiency, but by his inefficiency. He is welcome to every field of labor that he is capable of performing.

The South, in contradistinction to the North, has in no way abridged the negro's right to earn his bread in any direction of human interest or of honest effort. And the opportunity to earn what will supply all needs of human life lies at the foundation of individual advancement, for but a favored few are able to love what is

<sup>1</sup> *The Citizen's Part in Government*, p. 19.

good and to do what is right when the doors of opportunity to obtain the necessities of life are closed to them.

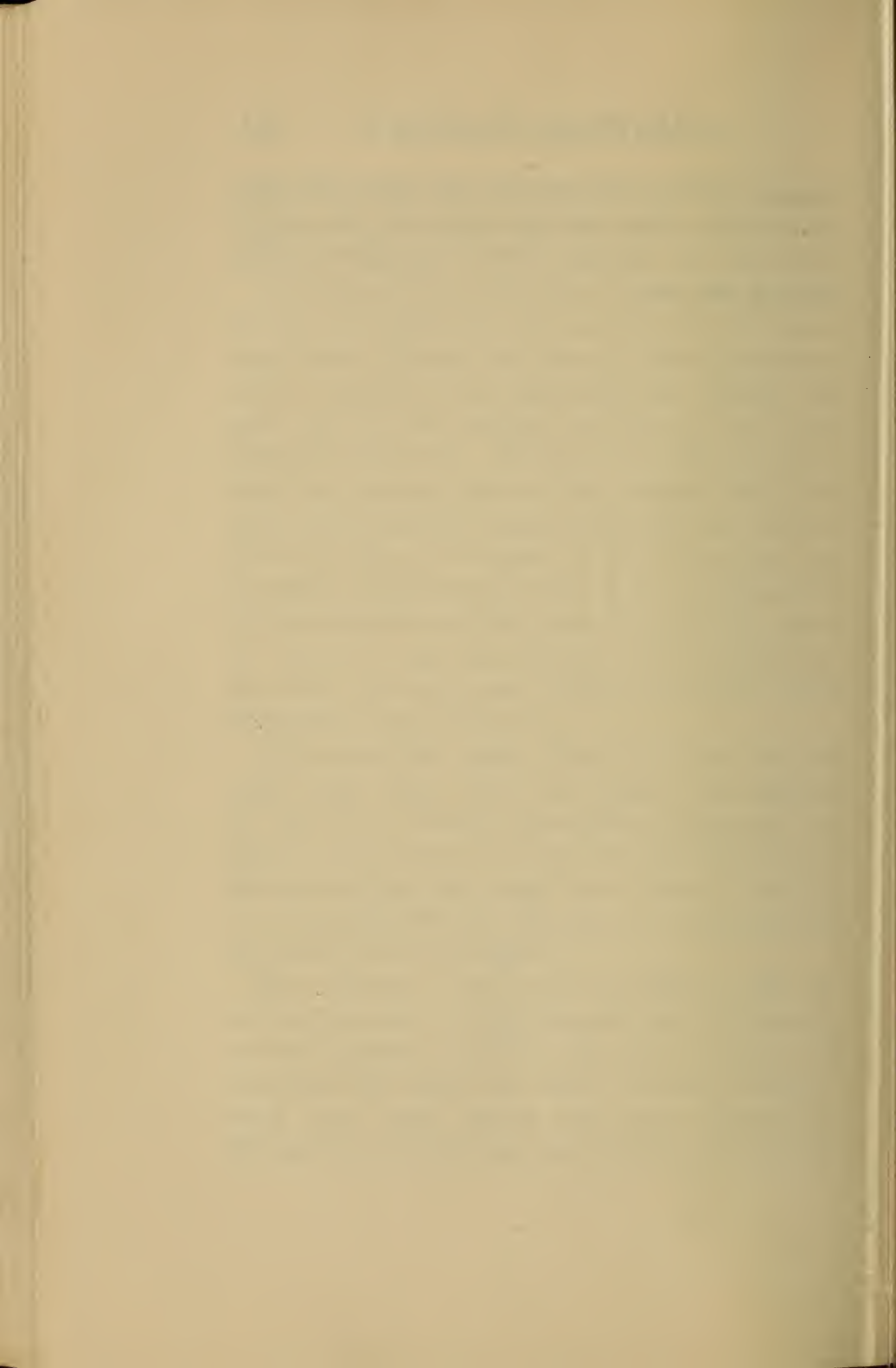
It is asserted as a principle of racial life, growth, decay, and death that when an inferior race comes into active contact and lives in close association with a superior race ultimately the weaker will give way to the stronger and decay and death will be its final end. The negro and the Caucasian races in America live in close contact with each other, the Caucasian being admittedly the stronger and the negro the weaker of the races; and the prophecy is frequently made that no suspension of the operation of this racial law will take place in America, and that slowly, but persistently, the negro race will grow weaker and weaker until death will bring extinction.

Admitting that such a fate is in store for the negro race, does that fact excuse the making of the most earnest, painstaking efforts on the part of all Americans to stay the operation of the law and to help this people to develop so rapidly that strength will take the place of weakness and its racial life be prolonged?

The solution of the negro problem in all its various aspects is beginning to be understood, and the agencies which in the years to come will transform the negro race into a civilized, enlightened, and moral people are being established throughout the land, and are receiving the hearty

support of those who realize and appreciate the debt which white Americans owe to the negro people for the suffering inflicted upon them in the days of the past.





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